

REFERENCE TITLE: trust land reform initiative; conformity

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2857

Introduced by
Representatives Huffman, Hershberger, O'Halleran

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-461.14; AMENDING TITLE 11, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-821.04; AMENDING SECTIONS 27-271.01, 37-101 AND 37-107, ARIZONA REVISED STATUTES; RENUMBERING TITLE 37, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, AS ARTICLE 3; TRANSFERRING AND RENUMBERING SECTIONS 37-131, 37-132 AND 37-133, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 37, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT, AS SECTIONS 37-151, 37-152 AND 37-153, RESPECTIVELY; AMENDING TITLE 37, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 2; AMENDING SECTION 37-152, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; TRANSFERRING AND RENUMBERING TITLE 37, CHAPTER 1.2, ARTICLE 1, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 37, CHAPTER 1, ARIZONA REVISED STATUTES, AS ARTICLE 5; TRANSFERRING AND RENUMBERING SECTIONS 37-171 THROUGH 37-176, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 37, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT, AS SECTIONS 37-191 THROUGH 37-196, RESPECTIVELY; CHANGING THE DESIGNATION OF TITLE 37, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT, TO "RESOURCE ANALYSIS DIVISION"; REPEALING THE CHAPTER HEADING OF TITLE 37, CHAPTER 1.2, ARIZONA REVISED STATUTES; AMENDING SECTIONS 37-202, 37-203, 37-211, 37-212, 37-214, 37-215 AND 37-236, ARIZONA REVISED STATUTES; REPEALING SECTION 37-236.01, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 37-236.01; AMENDING SECTIONS

37-239, 37-240, 37-241, 37-244, 37-251, 37-261, 37-286.01, 37-287, 37-290 AND 37-301, ARIZONA REVISED STATUTES; REPEALING TITLE 37, CHAPTER 2, ARTICLES 4.2 AND 5.1, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 5.1 AND ARTICLE 5.2; AMENDING SECTION 37-461, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARTICLE 13, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-527; AMENDING SECTIONS 37-606, 37-616, 41-172, 41-511.23 AND 41-1092.02, ARIZONA REVISED STATUTES; RELATING TO STATE TRUST LAND; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 6, Arizona Revised Statutes, is
3 amended by adding section 9-461.14, to read:

4 9-461.14. General plans affecting state trust lands: scope:
5 definition

6 A. IF TRUST LAND IS LOCATED IN A CITY OR TOWN THAT PREPARES OR AMENDS
7 ITS GENERAL PLAN, OR IF THE STATE LAND COMMISSIONER NOTIFIES THE CITY OR TOWN
8 THAT THE STATE LAND DEPARTMENT INTENDS TO PREPARE OR AMEND A CONCEPTUAL PLAN
9 FOR TRUST LAND IN THE GENERAL PLAN AREA OF THE CITY OR TOWN PURSUANT TO
10 SECTION 37-331.01, THE PLANNING AGENCY SHALL:

11 1. COOPERATE WITH THE STATE LAND DEPARTMENT REGARDING THE PREPARATION
12 OR AMENDMENT OF THE CONCEPTUAL PLAN PURSUANT TO SECTION 37-331.01 AND
13 EXCHANGE PROCEDURAL AND TECHNICAL INFORMATION RELATING TO THE PLAN AND THE
14 TRUST LAND LOCATED IN THE PLANNING AREA.

15 2. IF THE PLANNING AREA INCORPORATES TRUST LAND THAT IS LOCATED
16 OUTSIDE THE TERRITORY OF THE MUNICIPALITY, COORDINATE THE PRODUCTION OF THE
17 CONCEPTUAL PLAN OR AMENDMENT FOR THAT LAND WITH THE STATE LAND DEPARTMENT AND
18 THE COUNTY PURSUANT TO SECTION 11-821.04.

19 3. IF THE CONCEPTUAL PLAN OR AMENDMENT AND THE LAND USE ELEMENT OF THE
20 GENERAL PLAN ARE:

21 (a) THE SAME RELATIVE TO THE TRUST LAND, INTEGRATE THE CONCEPTUAL PLAN
22 INTO THE GENERAL PLAN.

23 (b) NOT THE SAME RELATIVE TO THE TRUST LAND AND THE STATE LAND
24 COMMISSIONER AND THE PLANNING AGENCY CANNOT AGREE ON THE INTEGRATION OF THE
25 PLANS, THE GOVERNING BODY OF THE CITY OR TOWN OR THE STATE LAND COMMISSIONER
26 MAY SUBMIT THE ELEMENTS OF THE PLAN THAT ARE IN DISPUTE TO MEDIATION AND
27 ARBITRATION, OR DIRECTLY TO ARBITRATION, PURSUANT TO SECTION 37-331.04.

28 B. IF THE STATE LAND DEPARTMENT NOTIFIES THE CITY OR TOWN THAT IT
29 INTENDS TO PREPARE OR AMEND A CONCEPTUAL PLAN FOR ANY TRUST LAND IN THE
30 PLANNING AREA OF THE MUNICIPALITY PURSUANT TO SECTION 37-331.01, AND THE
31 NOTICE PRECEDES THE NEXT REQUIRED UPDATE PURSUANT TO SECTION 9-461.06,
32 SUBSECTION K, THE CITY OR TOWN SHALL TREAT THE NOTICE AS A REQUEST FOR A
33 GENERAL PLAN AMENDMENT PURSUANT TO SECTION 9-461.14.

34 C. IF THE CITY OR TOWN AND THE STATE LAND COMMISSIONER HAVE ENTERED
35 INTO A DEVELOPMENT AGREEMENT PURSUANT TO SECTION 9-500.05 AND SECTION
36 37-331.02, THE CITY OR TOWN SHALL RATIFY THE AGREEMENT AT THE TIME IT TAKES
37 FINAL ACTION ON THE FINAL INTEGRATED PLAN PURSUANT TO SUBSECTION A OF THIS
38 SECTION.

39 D. IF A CONCEPTUAL PLAN FOR TRUST LAND ADOPTED BEFORE THE EFFECTIVE
40 DATE OF THIS SECTION CONFLICTS WITH THE LAND USE ELEMENT OF A MUNICIPALITY'S
41 GENERAL PLAN, OR IF A GENERAL PLAN INCORPORATES AN ADOPTED CONCEPTUAL PLAN
42 BUT THE LAND USE ELEMENT OR ANY OTHER ELEMENT ADDRESSING TRUST LAND IS
43 REJECTED BY THE VOTERS PURSUANT TO SECTION 9-461.06, SUBSECTION L OR M, OR
44 PURSUANT TO ARTICLE IV, PART 1, SECTION 1, CONSTITUTION OF ARIZONA, AND TITLE
45 19, CHAPTER 1, ARTICLE 4, THE PLANNING AGENCY AND THE STATE LAND DEPARTMENT

1 SHALL COOPERATE TO REPLAN THE TRUST LAND, AS NECESSARY, PURSUANT TO THIS
2 SECTION.

3 E. IF A CITY OR TOWN PROPOSES TO AMEND ANY PART OF A GENERAL PLAN THAT
4 ADDRESSES TRUST LAND THAT IS THE SUBJECT OF A CONCEPTUAL PLAN PREPARED AND
5 APPROVED PURSUANT TO SECTION 37-331.01, THE PLANNING AGENCY SHALL:

6 1. PROVIDE PROCEDURAL AND TECHNICAL INFORMATION RELATING TO THE PART
7 OF THE PLAN THAT APPLIES TO THE TRUST LAND LOCATED IN THE PLANNING AREA.

8 2. COOPERATE WITH THE STATE LAND DEPARTMENT REGARDING THE PREPARATION
9 OF ANY AMENDMENTS TO THE CONCEPTUAL PLAN AS PROVIDED IN SUBSECTION D OF THIS
10 SECTION.

11 F. FOR THE PURPOSES OF THIS SECTION, "TRUST LAND" HAS THE SAME MEANING
12 PRESCRIBED IN SECTION 37-101.

13 Sec. 2. Title 11, chapter 6, article 2, Arizona Revised Statutes, is
14 amended by adding section 11-821.04, to read:

15 11-821.04. County plans affecting state trust lands; scope;
16 definition

17 A. IF A COUNTY PREPARES OR AMENDS A COMPREHENSIVE PLAN THAT AFFECTS
18 TRUST LANDS, OR IF THE STATE LAND DEPARTMENT NOTIFIES THE COUNTY THAT IT
19 INTENDS TO PREPARE OR AMEND A CONCEPTUAL PLAN FOR ANY TRUST LAND IN THE
20 COUNTY'S AREA OF JURISDICTION PURSUANT TO SECTION 37-331.01, THE COUNTY
21 PLANNING AND ZONING COMMISSION SHALL:

22 1. COOPERATE WITH THE STATE LAND DEPARTMENT REGARDING THE PREPARATION
23 OR AMENDMENT OF THE CONCEPTUAL PLAN PURSUANT TO SECTION 37-331.01 AND
24 EXCHANGE PROCEDURAL AND TECHNICAL INFORMATION RELATING TO THE PLAN AND THE
25 TRUST LAND LOCATED IN THE AREA OF JURISDICTION.

26 2. IF THE TRUST LAND IS ALSO INCLUDED IN THE PLANNING AREA THAT IS THE
27 SUBJECT OF A MUNICIPAL GENERAL PLAN, COORDINATE THE PRODUCTION OF THE
28 CONCEPTUAL PLAN OR AMENDMENT FOR THAT LAND WITH THE STATE LAND DEPARTMENT AND
29 THE MUNICIPALITY PURSUANT TO SECTION 9-461.14.

30 3. IF THE CONCEPTUAL PLAN OR AMENDMENT AND THE LAND USE ELEMENT OF THE
31 COMPREHENSIVE PLAN ARE:

32 (a) THE SAME RELATIVE TO THE TRUST LAND, INTEGRATE THE CONCEPTUAL PLAN
33 INTO THE COMPREHENSIVE PLAN.

34 (b) NOT THE SAME RELATIVE TO THE TRUST LAND AND THE STATE LAND
35 COMMISSIONER AND THE PLANNING COMMISSION CANNOT AGREE ON THE INTEGRATION OF
36 THE PLANS, THE BOARD OF SUPERVISORS OR THE STATE LAND COMMISSIONER MAY SUBMIT
37 THE COMPONENTS OF THE PLAN THAT ARE IN DISPUTE TO MEDIATION AND ARBITRATION,
38 OR DIRECTLY TO ARBITRATION, PURSUANT TO SECTION 37-331.04.

39 B. IF THE STATE LAND DEPARTMENT NOTIFIES THE COUNTY THAT IT INTENDS TO
40 PREPARE OR AMEND A CONCEPTUAL PLAN FOR ANY TRUST LAND IN THE AREA OF
41 JURISDICTION PURSUANT TO SECTION 37-331.01, AND THE NOTICE PRECEDES THE NEXT
42 REQUIRED UPDATE PURSUANT TO SECTION 11-824, SUBSECTION B, THE COUNTY SHALL
43 TREAT THE NOTICE AS A REQUEST FOR A COMPREHENSIVE PLAN AMENDMENT PURSUANT TO
44 SECTION 11-824.

C. IF THE COUNTY AND THE STATE LAND COMMISSIONER HAVE ENTERED INTO A DEVELOPMENT AGREEMENT PURSUANT TO SECTION 11-1101 AND SECTION 37-331.02, THE COUNTY SHALL RATIFY THE AGREEMENT AT THE TIME IT TAKES FINAL ACTION ON THE FINAL INTEGRATED PLAN PURSUANT TO SUBSECTION A OF THIS SECTION.

D. IF A CONCEPTUAL PLAN FOR TRUST LAND ADOPTED BEFORE THE EFFECTIVE DATE OF THIS SECTION CONFLICTS WITH THE LAND USE ELEMENT OF A COUNTY'S COMPREHENSIVE PLAN, OR IF A COMPREHENSIVE PLAN INCORPORATES AN ADOPTED CONCEPTUAL PLAN BUT THE LAND USE ELEMENT OR ANY OTHER ELEMENT ADDRESSING TRUST LAND IS REJECTED BY THE VOTERS PURSUANT TO SECTION 11-824, SUBSECTION C, OR PURSUANT TO ARTICLE IV, PART 1, SECTION 1, CONSTITUTION OF ARIZONA, AND TITLE 19, CHAPTER 1, ARTICLE 4, THE COMMISSION AND THE STATE LAND DEPARTMENT SHALL COOPERATE TO REPLAN THE TRUST LAND, AS NECESSARY, PURSUANT TO THIS SECTION.

E. IF A COUNTY PROPOSES TO AMEND ANY PART OF A COMPREHENSIVE PLAN THAT ADDRESSES TRUST LAND THAT IS THE SUBJECT OF A CONCEPTUAL PLAN PREPARED AND APPROVED PURSUANT TO SECTION 37-331.01, THE COMMISSION SHALL:

1. PROVIDE PROCEDURAL AND TECHNICAL INFORMATION RELATING TO THE PART OF THE PLAN THAT APPLIES TO THE TRUST LAND LOCATED IN THE AREA OF JURISDICTION.

2. COOPERATE WITH THE STATE LAND DEPARTMENT REGARDING THE PREPARATION OF ANY AMENDMENTS TO THE CONCEPTUAL PLAN AS PROVIDED IN SUBSECTION B OF THIS SECTION.

F. FOR THE PURPOSES OF THIS SECTION, "TRUST LAND" HAS THE SAME MEANING PRESCRIBED IN SECTION 37-101.

Sec. 3. Section 27-271.01, Arizona Revised Statutes, is amended to read:

27-271.01. Inventory of trust land containing common mineral products, materials and property

A. The department shall maintain an inventory of lands THAT ARE suitable for lease or sale UNDER THIS ARTICLE, that are ~~within the boundaries identified in section 37-312 and are~~ located in a county WITH A POPULATION of more than six hundred thousand persons ~~according to the most recent United States decennial census~~ AND THAT ARE LOCATED WITHIN:

1. ONE MILE OF THE CORPORATE BOUNDARIES OF AN INCORPORATED CITY OR TOWN HAVING A POPULATION OF LESS THAN TEN THOUSAND PERSONS.

2. THREE MILES OF THE CORPORATE BOUNDARIES OF AN INCORPORATED CITY OR TOWN HAVING A POPULATION OF TEN THOUSAND PERSONS OR MORE.

B. Persons applying for reclassification of land pursuant to section ~~37-312~~ 37-212 shall be notified if the land has been identified by the department as land suitable for lease or sale.

Sec. 4. Section 37-101, Arizona Revised Statutes, is amended to read:

37-101. Definitions

In this title, unless the context otherwise requires:

1. "Agricultural lands" means lands ~~which~~ THAT are used or can be used principally for raising crops, fruits, grains and similar farm products.

1 2. "Amortized value" means the value for improvements established
2 pursuant to section 37-281.02, subsection G.

3 3. "BOARD OF TRUSTEES" OR "BOARD" MEANS THE BOARD OF TRUSTEES
4 APPOINTED PURSUANT TO ARTICLE 2 OF THIS CHAPTER.

5 ~~3-~~ 4. "Commercial ~~lands~~ PURPOSES" means ~~lands which can be used~~
6 ~~principally~~ THE USE OF TRUST LANDS for business, institutional, religious,
7 charitable, governmental or recreational purposes, or any general purpose
8 other than agricultural, grazing, mining, oil, homesite or rights-of-way.

9 ~~4-~~ 5. "Commissioner" means the state land commissioner.

10 ~~5-~~ 6. "Community identity package" means a design theme including
11 such elements as architecture, landscape, lighting, street furniture, walls
12 and signage.

13 7. "CONCEPTUAL PLAN" MEANS A PLAN THAT IS PREPARED BY THE DEPARTMENT
14 PURSUANT TO SECTION 37-337.01.

15 8. "CONSERVATION" MEANS PRESERVING THE NATURAL, CULTURAL OR HISTORICAL
16 ASSETS OF LAND, SUCH AS OPEN SPACE, SCENIC BEAUTY, GEOLOGY, ARCHAEOLOGY,
17 PROTECTED PLANTS, WILDLIFE AND ECOLOGICAL VALUES.

18 9. "CONSERVATION RESERVE LANDS" MEANS TRUST LAND DESIGNATED AS
19 CONSERVATION RESERVE LAND BY THE QUALIFIED ELECTORS ON NOVEMBER 7, 2006.

20 ~~6-~~ 10. "Department" means the state land department.

21 11. "FIVE YEAR DISPOSITION PLAN" MEANS A PLAN PREPARED BY THE
22 DEPARTMENT PURSUANT TO SECTION 37-331.05.

23 ~~7-~~ 12. "Grazing lands" means lands ~~which~~ THAT can be used only for
24 the ranging of livestock.

25 ~~8-~~ 13. "Holding lease" means a commercial lease issued solely to
26 grant a limited use leasehold interest in state land in anticipation of
27 future development.

28 ~~9-~~ 14. "Homesite lands" means lands which are suitable for
29 residential purposes.

30 ~~10-~~ 15. "Improvements" means anything permanent in character ~~which~~
31 THAT is the result of labor or capital expended by the lessee or his
32 predecessors in interest on state land in its reclamation or development, and
33 the appropriation of water thereon, and ~~which~~ THAT has enhanced the value of
34 the land.

35 ~~11-~~ 16. "Infrastructure" means PHYSICAL facilities, SERVICES or
36 amenities THAT ARE LOCATED ON-SITE OR OFF-SITE, INCLUDING TRANSPORTATION,
37 COMMUNICATION, WATER, SEWER AND OTHER UTILITIES. ~~, such as streets,~~
38 ~~utilities, landscaping and open space, which are constructed or located on~~
39 ~~state lands and which are intended to benefit more than the land on which~~
40 ~~they are immediately located by enhancing the development potential and value~~
41 ~~of the state lands impacted by the facility or amenities.~~

42 ~~12-~~ 17. "Leapfrog development" means the development of lands in a
43 manner requiring the extension of public facilities and services from their
44 existing terminal point through intervening undeveloped areas that are
45 scheduled for development at a later time, according to the plans of the

1 local governing body ~~having~~ THAT HAS jurisdiction for the area and ~~which~~ THAT
2 is responsible for the provision of these facilities and services.

3 ~~13.~~ 18. "Leased school or university land" means school or university
4 land for which a lease has been issued by the state, or the territory of
5 Arizona, under which the lessee retains rights.

6 19. "LOCAL PLANNING AUTHORITY" MEANS A COUNTY, CITY OR TOWN IN WHICH
7 TRUST LAND IS LOCATED.

8 ~~14.~~ 20. "Master developer" means a person who assumes, as a condition
9 of a land disposition, the responsibilities prescribed by the department for
10 infrastructure or community identity package amenities, or both, or for
11 implementing a development plan containing a master plan area.

12 ~~15.~~ 21. "Participation contract" means a contract arising out of a
13 sale together with other rights and obligations in trust ~~lands~~ LAND whereby
14 the department receives a share of the revenues generated by subsequent sales
15 or leases.

16 22. "PERMANENT RESERVE LANDS" MEANS CONSERVATION RESERVE LAND
17 DESIGNATED AS PERMANENT RESERVE LAND BY THE QUALIFIED ELECTORS ON
18 NOVEMBER 7, 2006.

19 23. "PROVISIONAL RESERVE LANDS" MEANS TRUST LAND DESIGNATED AS
20 PROVISIONAL RESERVE LANDS BY THE QUALIFIED ELECTORS ON NOVEMBER 7, 2006.

21 ~~16.~~ 24. "Section of land" means an area of land consisting of six
22 hundred forty acres.

23 ~~17.~~ 25. "State lands" means any land owned or held in trust, or
24 otherwise, by the state, including leased school or university land.

25 ~~18.~~ 26. "Sublease" means an agreement in which the lessee relinquishes
26 control of the leased land to another party for the purposes authorized in
27 the lease.

28 27. "TRUST" MEANS ANY OF THE TRUSTS ESTABLISHED PURSUANT TO ARTICLE X,
29 CONSTITUTION OF ARIZONA.

30 28. "TRUST LAND" MEANS ANY LAND THAT IS HELD IN TRUST BY THIS STATE
31 PURSUANT TO ARTICLE X, SECTION 1, CONSTITUTION OF ARIZONA.

32 ~~19.~~ 29. "Urban ~~lands~~" means ~~any state lands which are adjoining~~
33 ~~existing commercially or homesite developed lands and which are~~ either:

34 (a) Within the ~~corporate boundaries~~ GENERAL PLAN AREA of a city or
35 town.

36 ~~(b) Adjacent to the corporate boundaries of a city or town.~~

37 ~~(c) Lands for which the designation as urban lands is requested~~
38 ~~pursuant to section 37-331.01.~~

39 (b) LOCATED IN AN UNINCORPORATED AREA AND SUBJECT TO A CONCEPTUAL PLAN
40 FOR THE USE OF TRUST LAND FOR COMMERCIAL PURPOSES PURSUANT TO SECTION
41 37-331.01.

42 ~~20.~~ 30. "Urban sprawl" means the development of lands in a manner
43 requiring the extension of public facilities and services on the periphery of
44 an existing urbanized area where ~~such~~ THE extension is not provided for in

the existing plans of the local governing body having the responsibility for the provision of these facilities and services to the lands in question.

31. "VERTICAL DEVELOPMENT" MEANS BUILDINGS AND OTHER STRUCTURES FOR RESIDENTIAL, AGRICULTURAL, COMMERCIAL OR PUBLIC USE. VERTICAL DEVELOPMENT DOES NOT INCLUDE BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS EXISTING BEFORE NOVEMBER 2, 2006 OR FENCES, PATHS, TRAILS, TRAILHEADS, ROADWAYS, UTILITY AND PRIVATE SERVICE LINES AND ASSOCIATED FACILITIES, CANALS, DRAINAGE IMPROVEMENTS, WELLS, SIGNAGE, RANGE IMPROVEMENTS, COMMUNICATIONS FACILITIES, RESEARCH OR MONITORING STATIONS AND ASSOCIATED EQUIPMENT OR, IN ORDER TO FACILITATE REASONABLE PUBLIC ACCESS, PICNIC, CAMPING, HUNTING, FISHING, PARKING, SECURITY, COMFORT, MAINTENANCE AND OTHER FACILITIES THAT ARE COMPATIBLE WITH THE CHARACTERISTICS THAT LED TO THE DESIGNATION OF THE LAND AS CONSERVATION RESERVE LANDS OR TRUST LAND DESIGNATED AS SUITABLE FOR CONSERVATION.

Sec. 5. Section 37-107, Arizona Revised Statutes, is amended to read:

37-107. Classification and appraisal fees; deposit in state general fund

Except as provided in section 37-108, subsection D, classification and appraisal fees collected by the department pursuant to section 37-108:

1. WITH RESPECT TO TRUST LAND SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE TRUST LAND MANAGEMENT FUND ESTABLISHED BY SECTION 37-527.

2. WITH RESPECT TO OTHER STATE LANDS shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

Sec. 6. Transfer and renumber

A. Title 37, chapter 1, article 2, Arizona Revised Statutes, is renumbered as article 3.

B. Sections 37-131, 37-132 and 37-133, Arizona Revised Statutes, are transferred and renumbered for placement in title 37, chapter 1, article 3, Arizona Revised Statutes, as renumbered by this act, as sections 37-151, 37-152 and 37-153, respectively.

Sec. 7. Title 37, chapter 1, Arizona Revised Statutes, is amended by adding a new article 2, to read:

ARTICLE 2. BOARD OF TRUSTEES

37-131. Board of trustees

A. THE BOARD OF TRUSTEES IS ESTABLISHED PURSUANT TO ARTICLE X, SECTION 1.2, CONSTITUTION OF ARIZONA. THE BOARD OF TRUSTEES SHALL PROVIDE OVERSIGHT OF, AND REVIEW AND APPROVE OR DISAPPROVE THOSE MATTERS PERTAINING TO, THE MANAGEMENT, PLANNING AND DISPOSITION OF TRUST LAND AS PROVIDED BY LAW.

B. THE GOVERNOR SHALL APPOINT THE MEMBERS OF THE BOARD PURSUANT TO SECTION 38-211 AND ACCORDING TO THE REQUIREMENTS OF ARTICLE X, SECTION 1.2, CONSTITUTION OF ARIZONA. THE MEMBERS OF THE BOARD MUST HAVE SUBSTANTIAL EXPERIENCE WITH MATTERS THAT ARE WITHIN THE SCOPE OF THE BOARD'S AUTHORITY. AFTER A PUBLIC HEARING, THE GOVERNOR MAY REMOVE A MEMBER FOR INEFFICIENCY, INCAPACITY, NEGLECT OF DUTY OR MISCONDUCT IN OFFICE.

1 C. MEMBERS OF THE BOARD ARE NOT ELIGIBLE FOR COMPENSATION FOR THEIR
2 SERVICES. MEMBERS WHO ARE NOT EMPLOYEES OF THIS STATE ARE ELIGIBLE FOR
3 REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

4 D. THE BOARD SHALL ELECT ONE OF ITS MEMBERS TO SERVE AS
5 CHAIRPERSON. THE BOARD SHALL MEET QUARTERLY OR MORE FREQUENTLY AS DETERMINED
6 BY THE BOARD.

7 E. A BOARD MEMBER SHALL HAVE NO CONTACT WITH THE DEPARTMENT, THE
8 COMMISSIONER OR ANY OTHER MEMBER OF THE BOARD REGARDING A SUBJECT OR ISSUE IN
9 WHICH THE MEMBER HAS A SUBSTANTIAL INTEREST, AS DEFINED IN SECTION
10 38-502. THE TRUSTEES ARE SUBJECT TO ALL LAWS GOVERNING CONFLICTS OF
11 INTEREST.

12 37-132. Powers and duties

13 A. THE BOARD OF TRUSTEES SHALL:

14 1. KEEP AN ACCURATE RECORD OF ITS PROCEEDINGS.

15 2. APPROVE AN ANNUAL BUDGET, ON THE RECOMMENDATION OF THE
16 COMMISSIONER, FOR TRUST RELATED ACTIVITIES OF THE DEPARTMENT TO BE PAID FROM
17 THE TRUST LAND MANAGEMENT FUND ESTABLISHED BY SECTION 37-527 AND, ON
18 APPROVAL, THE BUDGET SHALL BE FURNISHED TO THE GOVERNOR FOR INCLUSION IN THE
19 EXECUTIVE BUDGET.

20 B. THE BOARD OF TRUSTEES MAY:

21 1. ADOPT RULES OF ORDER AND ADMINISTRATIVE RULES AND PROCEDURES FOR
22 CONDUCTING ITS BUSINESS. THE BOARD MAY USE A CONSENT AGENDA IN CONDUCTING
23 ITS BUSINESS.

24 2. EXECUTE CONTRACTS.

25 3. SUE AND BE SUED.

26 4. ACCEPT GIFTS, GRANTS AND DONATIONS OF ANY KIND FOR THE BENEFIT OF
27 THE TRUST FROM ANY PUBLIC OR PRIVATE SOURCE.

28 37-133. Decisions of board of trustees

29 A. DECISIONS OF THE BOARD OF TRUSTEES SHALL BE IN WRITING AND FILED OF
30 RECORD IN THE DEPARTMENT.

31 B. UNLESS OTHERWISE PROVIDED BY LAW, IF NO APPEAL IS TAKEN BY A PERSON
32 IN INTEREST AS PROVIDED IN TITLE 41, CHAPTER 6, ARTICLE 10, THE BOARD'S
33 DECISION IS FINAL AND CONCLUSIVE.

34 Sec. 8. Section 37-152, Arizona Revised Statutes, as transferred and
35 renumbered by this act, is amended to read:

36 37-152. Powers and duties of the commissioner

37 A. EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, the commissioner shall:

38 1. Exercise and perform all powers and duties vested in or imposed
39 upon the COMMISSIONER AND THE department, and prescribe such rules as are
40 necessary to discharge those duties. THE COMMISSIONER SHALL NOTIFY THE BOARD
41 OF TRUSTEES BEFORE PUBLISHING RULES RELATING TO STATE LANDS PURSUANT TO TITLE
42 41, CHAPTER 6, ARTICLE 2.

43 2. Exercise the powers of surveyor-general ~~except for the powers of~~
44 ~~the surveyor-general exercised by the treasurer as a member of the selection~~
45 ~~board pursuant to section 37-202.~~

3. Make long-range plans for the future use of ~~state lands~~ TRUST LAND in cooperation with other state agencies, local planning authorities and political subdivisions.

4. Promote the infill and orderly development of ~~state lands~~ TRUST LAND in areas beneficial to the trust and prevent urban sprawl or leapfrog development on ~~state lands~~ TRUST LAND.

5. Classify ALL TRUST LAND and appraise all state lands, together with the improvements on state lands, for the purpose of sale, lease or grant of rights-of-way. ~~The commissioner may impose such conditions and covenants and make such reservations in the sale of state lands as the commissioner deems to be in the best interest of the state trust.~~ The provisions of this paragraph are subject to hearing procedures pursuant to title 41, chapter 6, article 10 and, except as provided in section 41-1092.08, subsection H, are subject to judicial review pursuant to title 12, chapter 7, article 6.

6. Have authority to lease for grazing, agricultural, homesite or other purposes, except commercial, all land owned or held in trust by the state.

7. Have authority to lease for commercial purposes and sell all land OR INTERESTS IN LAND owned or held in trust by the state, but any such lease for commercial purposes ~~or any such sale~~ shall first be approved by the board of ~~appeals~~ TRUSTEES.

8. ~~Except as otherwise provided,~~ Determine all disputes, grievances or other questions pertaining to the administration of state lands.

9. Appoint deputies and other assistants and employees necessary to perform the duties of the department, assign their duties, and require of them such surety bonds as the commissioner deems proper.

10. MAKE AN ANNUAL BUDGET FOR THE DEPARTMENT THAT SHALL INCLUDE AN ANNUAL BUDGET FOR TRUST RELATED ACTIVITIES OF THE DEPARTMENT TO BE PAID FROM THE TRUST LAND MANAGEMENT FUND ESTABLISHED BY SECTION 37-527.

~~10.~~ 11. AFTER REVIEW BY THE BOARD OF TRUSTEES, make a written report to the governor annually, not later than September 1, disclosing in detail the activities of the department for the preceding fiscal year, and publish it for distribution. The report shall include an evaluation of auctions of state land leases held during the preceding fiscal year considering the advantages and disadvantages to the state trust of the existence and exercise of preferred rights to lease reclassified state land. THE COMMISSIONER SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

~~11.~~ 12. Withdraw state land from surface or subsurface sales or lease applications if the commissioner deems it to be in the best interest of the trust. This closure of state lands to new applications for sale or lease does not affect the rights ~~which~~ THAT existing lessees have under law for renewal of their leases and reimbursement for improvements.

1 B. **EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE**, the commissioner may:

2 1. Take evidence relating to, and may require of the various county
3 officers information on, any matter that the commissioner has the power to
4 investigate or determine.

5 2. Under such rules as the commissioner adopts, use private real
6 estate brokers to assist in any sale or long-term lease of state land and
7 pay, from fees collected under section 37-108, subsection A, paragraph 10,
8 subdivision (a), a commission to a broker that is licensed pursuant to title
9 32, chapter 20 and that provides the purchaser or lessee at auction. The
10 purchaser or lessee at auction is not eligible to receive a commission
11 pursuant to this subsection. A commission shall not be paid on a sale or a
12 long-term lease if the purchaser or lessee is another governmental agency.

13 3. Require a permittee, lessee or grantee to post a surety bond or any
14 form of collateral deemed sufficient by the commissioner for performance or
15 restoration purposes. The commissioner shall use the proceeds of a bond or
16 collateral only for the purposes determined at the time the bond or
17 collateral is posted. For agricultural lessees, the commissioner may require
18 collateral as follows:

19 (a) As security for payment of the annual assessments levied by the
20 irrigation district in which the state land is located if the lessee has a
21 history of late payments or defaults. The amount of the collateral required
22 shall not exceed the annual assessment levied by the irrigation district.

23 (b) As security for payment of rent, if an extension of time for
24 payment is requested or if the lessee has a history of late payments of rent.
25 The collateral shall be submitted at the time any extension of time for
26 payment is requested. The amount of the collateral required shall not exceed
27 the annual amount of rent for the land.

28 (c) A surety bond shall be required only if the commissioner
29 determines that other forms of collateral are insufficient.

30 4. Withhold market and economic analyses, preliminary engineering,
31 site and area studies and appraisals that are collected during the **urban**
32 planning process from public viewing before they are submitted to local
33 planning and zoning authorities.

34 5. Withhold from public inspection proprietary information received
35 during lease negotiations. The proprietary information shall be released to
36 public inspection unless the release may harm the competitive position of the
37 applicant and the information could not have been obtained by other
38 legitimate means.

39 6. Issue permits for short-term use of state land for specific
40 purposes as prescribed by rule.

41 7. Contract with a third party to sell recreational permits. A third
42 party under contract pursuant to this paragraph may assess a surcharge for
43 its services as provided in the contract, in addition to the fees prescribed
44 by section 37-108.

8. Close ~~urban~~ lands to specific uses as prescribed by rule if necessary for dust abatement, to reduce a risk from hazardous environmental conditions that pose a risk to human health or safety or for remediation purposes.

~~9. Notwithstanding subsection A, paragraph 4 of this section, authorize, in the best interest of the trust, the extension of public services and facilities either:~~

~~(a) That are necessary to implement plans of the local governing body, including plans adopted or amended pursuant to section 9-461.06 or 11-824.~~

~~(b) Across state lands that are either:~~

~~(i) Classified as suitable for conservation pursuant to section 37-312.~~

~~(ii) Sold or leased at auction for conservation purposes.~~

9. IMPOSE COVENANTS, CONDITIONS AND RESTRICTIONS, MAKE RESERVATIONS OR PROVIDE FOR REVERSIONS IN THE DISPOSITION OF TRUST LAND, OR INTERESTS IN TRUST LAND, EXCEPT THAT ANY INTEREST OR RIGHT OF USE RESERVED WITH RESPECT TO CONSERVATION RESERVE LANDS OR TRUST LAND DESIGNATED AS SUITABLE FOR CONSERVATION SHALL NOT BE INCONSISTENT WITH THE CONSERVATION OF THE LAND.

10. ENTER INTO DEVELOPMENT AGREEMENTS RELATING TO TRUST LAND WITH THE CITY, TOWN OR COUNTY IN WHICH THE LAND IS LOCATED AS PROVIDED BY SECTION 9-500.05 OR 11-1101, AS APPLICABLE.

11. NOTWITHSTANDING THE REQUIREMENTS OF SECTION 37-239, REQUIRE AS A TERM OF ANY SALE OR LEASE THE PAYMENT OF A SHARE OF THE REVENUES GENERATED BY SUBSEQUENT SALES OR LEASES.

C. The commissioner or any deputy or employee of the department shall not have, own or acquire, directly or indirectly, any state lands or the products on any state lands, any interest in or to such lands or products, or improvements on leased state lands, or be interested in any state irrigation project affecting state lands.

Sec. 9. Transfer and renumber

A. Title 37, chapter 1.2, article 1, Arizona Revised Statutes, is transferred and renumbered for placement in title 37, chapter 1, Arizona Revised Statutes, as article 5.

B. Sections 37-171 through 37-176, Arizona Revised Statutes, are transferred and renumbered for placement in title 37, chapter 1, article 5, Arizona Revised Statutes, as transferred and renumbered by this act, as sections 37-191 through 37-196, respectively.

Sec. 10. Heading change

The article heading of title 37, chapter 1, article 5, Arizona Revised Statutes, as transferred and renumbered by this act, is changed from "GENERAL PROVISIONS" to "RESOURCE ANALYSIS DIVISION".

Sec. 11. Heading repeal

The chapter heading of former title 37, chapter 1.2, Arizona Revised Statutes, is repealed.

1 Sec. 12. Section 37-202, Arizona Revised Statutes, is amended to read:

2 37-202. Selection powers and duties of board of trustees:
 3 distribution of central Arizona project water to
 4 trust land

5 ~~A. There is established a selection board composed of the governor,~~
 6 ~~the state treasurer exercising those powers of the surveyor general with~~
 7 ~~respect to the selection of lands as provided in this section and the~~
 8 ~~attorney general.~~

9 A. THE BOARD OF TRUSTEES SHALL ACT AS THE SELECTION BOARD OF THIS
 10 STATE FOR ALL PURPOSES UNDER FEDERAL AND STATE LAW.

11 B. The selection board shall:

12 1. Do all things necessary to comply with the laws of the United
 13 States and of the state in securing title to the lands granted to the state
 14 in quantity or as indemnity by the enabling act, or to any other lands ~~which~~
 15 ~~THAT~~ may be granted to the state.

16 ~~C. 2. The board shall~~ File upon and select, and cause to be withdrawn
 17 and surveyed for selection, lands the commissioner from time to time
 18 recommends for selection or for withdrawal and survey.

19 ~~D. 3. The selection board shall~~ Cancel, relinquish and release the
 20 claim of the state and reconvey to the United States any tract of land
 21 erroneously listed to the state or any tract upon which, at the time of
 22 selection or withdrawal, a bona fide claim has been initiated by an actual
 23 settler.

24 ~~E. 4. The board shall~~ Designate which of the lands selected shall be
 25 assigned to each specific fund designated in the grants made to the state by
 26 the United States. The selections shall be apportioned among the various
 27 grants so that each fund shall receive as nearly as possible its pro rata
 28 share of the different classes of land selected.

29 ~~F. C.~~ The board shall determine the distribution of all central
 30 Arizona project water allocated for the benefit of ~~state~~ trust ~~lands~~
 31 ~~LAND~~. All allocations of central Arizona project water made by the ~~selection~~
 32 board shall be used on ~~state~~ trust ~~lands~~ ~~LAND~~ except that if ~~state~~ trust
 33 ~~lands~~ ~~LAND~~ to which central Arizona project waters have been allocated are
 34 sold, then the central Arizona project water allocated to those lands may be
 35 used on those lands. All allocations of central Arizona project water made
 36 by the selection board shall conform to the Arizona state water plan
 37 administered by the department of water resources. Allocations greater than
 38 ten per cent of the total amount of central Arizona project water available
 39 to the state for the benefit of ~~state~~ trust ~~lands~~ ~~LAND~~ shall require
 40 legislative approval by concurrent resolution before ~~such~~ ~~THE~~ allocation is
 41 available for use.

42 ~~G. D.~~ If state land is included in a proposed corporate limit of a
 43 municipality, the selection board, at the commissioner's request, may render
 44 a determination approving or rejecting the inclusion of the state land in the
 45 proposed corporate limit.

Sec. 13. Section 37-203, Arizona Revised Statutes, is amended to read:

37-203. Selection of lands; designation of land to institution or purpose; credit of receipts to specific funds

A. Lands granted to the state shall be selected and filed upon by the selection board as expeditiously as the best interest of the state warrants. All lands selected and all lands specifically by description granted to the state shall be designated on the books, maps and plats of the state land department as lands of the institution, department or purpose to which the proceeds received ~~therefrom~~ FROM THE LANDS will be credited.

B. All money received from leases or grants of any land designated as belonging to any institution, department or purpose, and all monies received for forfeitures or penalties in connection therewith shall belong to the institution, department or purpose and shall be credited to a PERMANENT fund set up for ~~such~~ THAT institution, department or purpose PURSUANT TO ARTICLE 13 OF THIS CHAPTER.

Sec. 14. Section 37-211, Arizona Revised Statutes, is amended to read:

37-211. Investigations of and experiments on state lands to determine possible uses; reclassification

A. The state land commissioner may conduct investigations and experiments on the lands of the state to:

1. Determine which are suitable for agricultural purposes, or which may be suitable therefor by the development of water and otherwise.

2. Determine which are useful for grazing purposes only.

3. Ascertain the requirements of lands susceptible ~~of~~ TO agricultural development and the method or means best adapted to ~~insure~~ ENSURE the development.

4. Determine which trust ~~lands are~~ LAND IS suitable for conservation OR SUITABLE FOR DEVELOPMENT purposes pursuant to ~~article 4.2~~ ARTICLE 5.1 of this chapter.

5. Obtain other information and data ~~which~~ THAT will aid in the leasing, sale and administration of lands belonging to the state.

B. If in the investigation the commissioner determines that lands have been erroneously classified, the classification shall be changed.

Sec. 15. Section 37-212, Arizona Revised Statutes, is amended to read:

37-212. Classification of lands selected; reclassification

A. The commissioner shall promptly classify all lands selected as provided in article 1 of this chapter.

B. In classifying state lands, the commissioner shall maintain in the offices of the department plats, maps or books containing the description of lands and disclosing:

1. Lands suitable for agricultural purposes.

2. Lands suitable for grazing purposes.

3. Lands suitable for homesite purposes.

4. Lands suitable for commercial purposes.

5. Lands within the boundaries of any school district ~~which may~~ THAT, within the discretion of the governing board of the applicable school district within which the lands are located and within the discretion of the commissioner, MAY become adaptable to public educational purposes, ~~provided such~~ EXCEPT THAT THE lands shall not exceed sixty acres for school buildings and grounds.

6. Lands suitable for exchange.

~~7. Urban lands suitable for urban planning.~~

~~8. Urban lands consistent with a development or secondary plan.~~

7. LANDS SUITABLE FOR CONSERVATION.

8. LANDS SUITABLE FOR DEVELOPMENT.

9. Lands suitable for multipurpose use.

~~10. Trust lands suitable for conservation purposes pursuant to article 4.2 of this chapter.~~

10. CONSERVATION RESERVE LANDS PURSUANT TO ARTICLE X, SECTION 1.1, CONSTITUTION OF ARIZONA.

11. PERMANENT RESERVE LANDS PURSUANT TO ARTICLE X, SECTION 1.1, CONSTITUTION OF ARIZONA.

12. PROVISIONAL RESERVE LANDS PURSUANT TO ARTICLE X, SECTION 1.1, CONSTITUTION OF ARIZONA.

13. EDUCATIONAL RESERVE LANDS PURSUANT TO ARTICLE X, SECTION 1.1, CONSTITUTION OF ARIZONA.

C. The commissioner may reclassify lands if the commissioner determines that reclassification is in the best interest of the trust and of the state, AND LANDS MAY HAVE MORE THAN ONE CLASSIFICATION. A DECISION TO RECLASSIFY STATE LANDS IS FINAL AND IS NOT SUBJECT TO FURTHER ADMINISTRATIVE REVIEW OR JUDICIAL REVIEW UNDER TITLE 12, CHAPTER 7, ARTICLE 6.

D. Classification of ~~urban lands as suitable for urban planning or for self-contained community site planning~~ LANDS AS SUITABLE FOR CONSERVATION, SUITABLE FOR DEVELOPMENT, CONSERVATION RESERVE LANDS, PERMANENT RESERVE LANDS, PROVISIONAL RESERVE LANDS OR EDUCATIONAL RESERVE LANDS shall not cause an existing lease, PERMIT OR RIGHT-OF-WAY to be MODIFIED OR terminated ~~under section 37-290, and such classification shall be accomplished pursuant to the requirements of article 5.1 of this chapter~~ OR PRECLUDE THE EXTENSION OR RENEWAL OF AN EXISTING LEASE, PERMIT OR RIGHT-OF-WAY OR THE GRANTING OF NEW LEASES, PERMITS OR RIGHTS-OF-WAY THAT DO NOT INVOLVE VERTICAL DEVELOPMENT, EXCEPT AS DETERMINED BY THE COMMISSIONER.

~~E. Classification of trust lands suitable for conservation pursuant to subsection B, paragraph 10 of this section shall be accomplished pursuant to article 4.2 of this chapter and shall not cause an existing lease to be impaired or canceled under section 37-290.~~

Sec. 16. Section 37-214, Arizona Revised Statutes, is amended to read:

37-214. Review and approval of participation contracts

~~A.~~ Before approving a participation contract, the board of ~~appeals~~ TRUSTEES shall review the report submitted by the commissioner pursuant to

1 section 37-239. A majority vote of a quorum of the board is required for the
 2 adoption of the report. Upon the adoption of the report the proposed
 3 participation contract may be approved. The board shall act within one
 4 hundred twenty days after receiving the report. ~~THE BOARD'S DECISION IS~~
 5 ~~FINAL AND IS NOT SUBJECT TO FURTHER ADMINISTRATIVE REVIEW OR JUDICIAL REVIEW~~
 6 ~~UNDER TITLE 12, CHAPTER 7, ARTICLE 6.~~

7 ~~B. Land classified as suitable for commercial or homesite purposes~~
 8 ~~after completing the planning process pursuant to article 5.1 of this chapter~~
 9 ~~shall not be leased for a term greater than ten years unless the board~~
 10 ~~determines that such lease will result in obtaining a higher benefit to the~~
 11 ~~trust than would result if the land were sold. In making this determination,~~
 12 ~~the board shall consider the sales price, the investment earnings potential,~~
 13 ~~the property tax revenues obtainable once the land has been sold, the role of~~
 14 ~~trust earnings in the financing of the activities of the beneficiaries, the~~
 15 ~~potential earnings available through the lease or exchange of the lands in~~
 16 ~~question, the potential long term appreciation of the land and all other~~
 17 ~~factors deemed relevant by the board.~~

18 ~~C. A final decision of the board may be appealed by the commissioner~~
 19 ~~or by any person adversely affected by the decision pursuant to title 41,~~
 20 ~~chapter 6, article 10.~~

21 Sec. 17. Section 37-215, Arizona Revised Statutes, is amended to read:

22 37-215. Appeal from decision of commissioner or board of
 23 appeals

24 A. An appeal from a final decision of the state land commissioner
 25 relating to ~~classification or~~ THE appraisal of ~~lands or~~ improvements may be
 26 taken to the board of appeals by any person adversely affected by the
 27 decision. Appeals shall be taken by giving notice in writing to the
 28 commissioner within thirty days from the date notice of the decision is
 29 mailed to the last known post office address of the appellant by the
 30 commissioner.

31 B. As a condition for filing an appeal of an order regarding an
 32 appraisal conducted under section 37-285 or a reappraisal required by the
 33 terms of a lease, the appellant, with the notice of appeal, shall pay to the
 34 department all amounts of the billed rental during the pendency of the
 35 appeal. The disputed amount shall be held by the state treasurer in an
 36 impound fund to be invested subject to the final disposition of the appeal,
 37 and the undisputed amount shall be credited to the appropriate trust. If the
 38 appellant fails to pay any amount before the deadline for filing notice of
 39 the appeal and fails to provide proof of payment of the amount with the
 40 notice of appeal, any notice of appeal to the board of appeals or to superior
 41 court shall not be accepted for filing and the decision of the commissioner
 42 is final. If billed rental becomes due during the pendency of an appeal and
 43 is not paid on or before the due date, the appeal shall be dismissed and the
 44 decision of the commissioner is final. If the commissioner's decision is
 45 upheld on final disposition of the appeal, the monies in the impound fund,

1 with interest, shall be paid to the appropriate trust. If the commissioner's
 2 decision is not upheld on final disposition of the appeal, the monies in the
 3 impound fund, with interest, shall be credited first to the accrued rent
 4 determined to be due and the remainder shall be paid to the appellant.

5 C. The board of appeals, within one hundred twenty days from the date
 6 of the notice of appeal, shall conduct a hearing in the county in which the
 7 major portion of the land involved in the appeal is located, unless otherwise
 8 stipulated by the parties to the appeal. The board shall render its decision
 9 upon the hearing within sixty days from the date of the hearing unless the
 10 parties to the appeal otherwise stipulate. The board shall make its findings
 11 and decision in writing and shall furnish a copy to all parties to the
 12 appeal. A majority of a quorum of the board may render the decision.

13 D. All records of the board of appeals shall be kept in the offices of
 14 the state land department. The department shall provide clerical assistants
 15 to the board as necessary to perform its duties.

16 E. Except as provided in section 41-1092.08, subsection H, the
 17 commissioner or any person adversely affected by a final decision of the
 18 board of appeals may seek judicial review pursuant to title 12, chapter 7,
 19 article 6.

20 F. Any person adversely affected by a final decision of the
 21 commissioner not relating to the classification or appraisal of lands or
 22 improvements is entitled to a hearing pursuant to title 41, chapter 6,
 23 article 10.

24 G. If no appeal is taken, the decision of the commissioner or the
 25 board of appeals, as the case may be, is final and conclusive.

26 Sec. 18. Section 37-236, Arizona Revised Statutes, is amended to read:

27 37-236. Order by department of sale of lands: sale at auction:
 28 cancellation of sale

29 A. Upon completion of the appraisal, if the department determines that
 30 the ~~interests~~ INTEREST of the ~~state~~ TRUST will not be prejudiced by sale of
 31 the land, or when application for purchase was made by the lessee of
 32 agricultural land entitled to compensation for improvements on the land
 33 appraised, within sixty days after the time for taking an appeal expires and
 34 no appeal is taken, or if an appeal is taken and the decision is against
 35 appellant, within sixty days after the decision is received, the department
 36 shall order the sale of the lands to the highest and best bidder ~~therefor~~ at
 37 public auction held at the county seat of the county ~~wherein~~ WHERE the land
 38 or the major portion ~~thereof~~ OF THE LAND is located, and the department shall
 39 give notice of the sale by advertisement.

40 B. If the commissioner receives information ~~which~~ THAT indicates a
 41 change in the circumstances regarding the benefits to the trust but prior to
 42 the acceptance of a final bid at the public auction, the commissioner may
 43 cancel the sale proceedings.

~~C. A person adversely affected by a decision to terminate a sale pursuant to subsection B of this section may appeal such decision to the board of appeals pursuant to section 37-215.~~

Sec. 19. Repeal

Section 37-236.01, Arizona Revised Statutes, is repealed.

Sec. 20. Title 37, chapter 2, article 3, Arizona Revised Statutes, is amended by adding a new section 37-236.01, to read:

37-236.01. Sale or conveyance of trust lands classified as suitable for conservation

A. THE COMMISSIONER MAY CONVEY TITLE TO OR ANY INTEREST IN TRUST LAND CLASSIFIED AS SUITABLE FOR CONSERVATION:

1. IF CLASSIFIED PURSUANT TO SECTION 37-331.01 OR 37-331.02, TO A PURCHASER IN CONJUNCTION WITH AN AUCTION OF TRUST LAND THAT IS CLASSIFIED AS SUITABLE FOR DEVELOPMENT AND THAT IS THE SUBJECT OF THE SAME CONCEPTUAL PLAN.

2. IF CLASSIFIED PURSUANT TO SECTION 37-331.01, TO THE LOCAL PLANNING AUTHORITY WITHOUT ADVERTISEMENT, AUCTION OR THE PROVISION OF FURTHER CONSIDERATION OR VALUE, IF:

(a) THE COMMISSIONER DETERMINES THAT THE USE OF THE LANDS FOR CONSERVATION PURPOSES IS A CONDITION TO THE USE AND DEVELOPMENT OF OTHER TRUST LAND CLASSIFIED AS SUITABLE FOR DEVELOPMENT IN THE SAME CONCEPTUAL PLAN UNDER AN ADOPTED POLICY, ORDINANCE OR REGULATION OF THE LOCAL PLANNING AUTHORITY THAT IS NOT DISCRIMINATORY AS COMPARED TO THE TREATMENT OF PRIVATELY OWNED LANDS LOCATED IN THE COUNTY, CITY OR TOWN, OR PURSUANT TO A DEVELOPMENT AGREEMENT IF THE CONVEYANCE WILL BENEFIT TRUST LAND CLASSIFIED AS SUITABLE FOR DEVELOPMENT CONSISTENT WITH SECTION 9-500.13 OR 11-811.

(b) THE CONVEYANCE IS APPROVED BY THE BOARD OF TRUSTEES.

B. THE COMMISSIONER MAY CONVEY TITLE TO OR ANY INTEREST IN TRUST LAND CLASSIFIED AS SUITABLE FOR CONSERVATION PURSUANT TO SECTION 37-331.02 TO THE LOCAL PLANNING AUTHORITY OR TO A PURCHASER IN CONJUNCTION WITH AN AUCTION OF TRUST LAND THAT IS CLASSIFIED AS SUITABLE FOR DEVELOPMENT AND THAT IS THE SUBJECT OF THE SAME CONCEPTUAL PLAN, WITHOUT ADVERTISEMENT OR AUCTION, AND WITHOUT THE PROVISION OF FURTHER CONSIDERATION OR VALUE, OTHER THAN AS PROVIDED IN THE DEVELOPMENT AGREEMENT WITH THE LOCAL PLANNING AUTHORITY PURSUANT TO SECTION 37-331.02.

C. THE TERMS OF ANY CONVEYANCE PURSUANT TO THIS SECTION SHALL PERMANENTLY:

1. RESTRICT THE LAND AGAINST VERTICAL DEVELOPMENT.

2. REQUIRE THAT THE LANDS BE MANAGED IN A MANNER CONSISTENT WITH THE CONSERVATION OF THE LANDS.

3. ESTABLISH REASONABLE PUBLIC ACCESS TO THE LANDS.

Sec. 21. Section 37-239, Arizona Revised Statutes, is amended to read:

37-239. Participation contracts

A. SUBJECT TO THE APPROVAL OF THE BOARD OF TRUSTEES PURSUANT TO SECTION 37-214, the commissioner may ~~enter into~~ OFFER A participation ~~contracts~~ CONTRACT FOR AUCTION and may charge a fee to an applicant to retain

one or more consultants to assist in negotiating or preparing a participation contract. If the applicant is not the successful bidder, the commissioner shall refund the fee.

B. Before recommending ~~any participation contract~~ to the board of ~~appeals~~ TRUSTEES THAT A PARTICIPATION CONTRACT BE OFFERED FOR AUCTION, the commissioner shall consider and report on FACTORS THE COMMISSIONER DETERMINES ARE RELEVANT TO THE BOARD'S CONSIDERATION AND APPROVAL, INCLUDING THE MATTERS DESCRIBED IN SUBSECTION H OF THIS SECTION, AS APPLICABLE, AND:

1. ANY REQUIREMENTS ESTABLISHED FOR EXPERIENCE AND FINANCIAL CAPABILITY IN ORDER FOR PROSPECTIVE BIDDERS TO BE ELIGIBLE TO SUBMIT BIDS FOR THE PARTICIPATION CONTRACT.

2. WHETHER THE AUCTION OF THE PARTICIPATION CONTRACT WILL BE CONDUCTED IN SUCCESSIVE PHASES, THE SUBJECT OF EACH PHASE OF THE AUCTION AND THE ESTIMATED TIME THAT WILL ELAPSE BETWEEN EACH PHASE OF THE AUCTION.

3. THE FIXED ECONOMIC TERMS PURSUANT TO WHICH THE LAND WILL BE OFFERED AT AUCTION.

4. THE VARIABLE ECONOMIC TERMS PURSUANT TO WHICH THE LAND WILL BE OFFERED AT AUCTION.

5. WHETHER THE HIGHEST BID WILL BE DETERMINED BY SEALED OR OPEN BID.

~~1-~~ 6. The AMOUNT OR methodology for determining any CREDITABLE OR reimbursable COSTS FOR PLANNING, OBTAINING ZONING AND OTHER NECESSARY APPROVALS OR infrastructure AND IMPROVEMENT costs, OR WHETHER THOSE TERMS WILL BE DETERMINED FOLLOWING THE AUCTION.

~~2-~~ 7. An analysis of the state trust revenue to be derived from the proposed participation contract INCLUDING, AS APPLICABLE, PAYMENT OF THE MINIMUM SALES PRICE AND ANY ADDITIONAL CONSIDERATION THAT MAY BE PROVIDED FOR THE LAND INCLUDING A SHARE OF THE REVENUE TO BE PAID TO THE TRUST FROM THE PROCEEDS OF SUBSEQUENT SALES OR LEASES OF THE LANDS.

~~3-~~ 8. The historical trends in land values in the area by types of proposed land uses.

~~4-~~ 9. An analysis of the financial feasibility of the planned development's proposed build-out schedule OR WHETHER THE BUILD-OUT SCHEDULE WILL BE DETERMINED FOLLOWING THE AUCTION.

~~5-~~ 10. An evaluation of the potential economic risks and benefits to the trust arising from the participation contract.

~~6-~~ 11. An analysis of the economic and financial impact, and other factors determined by the commissioner, regarding alternative dispositions or no disposition of the lands.

~~C. Each participation contract shall:~~

~~1. Provide that subsequent sales or leases of state land that are subject to a participation contract shall be based on the criteria and the phasing and disposition plan included in the participation contract and the formula for determining the amount of revenue to the trust as a result of the subsequent sale or lease.~~

1 ~~2. Prescribe rights and remedies in the case of default including~~
2 ~~rights to cure, forfeiture and other appropriate remedies.~~

3 ~~D.~~ C. This state's share of the revenues from the sale of land under
4 a participation contract shall be deposited, pursuant to sections 35-146 and
5 35-147, in the appropriate perpetual fund.

6 ~~E. A participation contract may be offered on lands that do not have a~~
7 ~~development plan approved by the commissioner or on land that may require the~~
8 ~~successful bidder to further plan and zone property after the auction.~~
9 ~~Before auctioning a contract requiring planning and zoning, the commissioner~~
10 ~~may solicit planning and disposition proposals, through advertisement for at~~
11 ~~least five consecutive days in a newspaper of general circulation in the~~
12 ~~county in which the lands are located, or if there is no daily newspaper of~~
13 ~~general circulation in that county, the advertisement shall be published as~~
14 ~~many times within a thirty-day period as the newspaper is published but not~~
15 ~~more than five times. The commissioner may require information regarding the~~
16 ~~projected planning and zoning, the estimated costs of the planning and zoning~~
17 ~~and the financial feasibility of the proposal. The proposals shall also~~
18 ~~contain proposed participation payments. The commissioner may provide that~~
19 ~~some of the information that is contained in the proposals will remain~~
20 ~~confidential, if the information is proprietary, until the commissioner~~
21 ~~recommends a contract to the board of appeals. After the proposals are~~
22 ~~received, the commissioner may conduct preauction conferences regarding the~~
23 ~~proposals. The commissioner may then auction a participation contract that,~~
24 ~~at the commissioner's option, may incorporate information that was acquired~~
25 ~~through the proposal process.~~

26 D. THE COMMISSIONER MAY ISSUE REQUESTS FOR QUALIFICATIONS SOLICITING
27 INFORMATION REGARDING THE EXPERIENCE AND FINANCIAL CAPABILITY OF PROSPECTIVE
28 BIDDERS. THE COMMISSIONER MAY ESTABLISH REQUIREMENTS FOR BIDDER EXPERIENCE
29 AND FINANCIAL CAPABILITY. THE COMMISSIONER SHALL DETERMINE WHICH RESPONDENTS
30 SATISFY THE REQUIREMENTS AND ARE ELIGIBLE TO SUBMIT BIDS FOR THE
31 PARTICIPATION CONTRACT.

32 E. THE COMMISSIONER MAY ISSUE REQUESTS FOR PROPOSALS TO BIDDERS
33 QUALIFIED UNDER SUBSECTION D OF THIS SECTION REQUIRING INFORMATION REGARDING
34 EACH BIDDER'S PROPOSED PLAN OF DEVELOPMENT, PROJECTED PLANNING, ZONING AND
35 OTHER NECESSARY APPROVALS, INFRASTRUCTURE AND OTHER IMPROVEMENTS, THE
36 ESTIMATED COSTS OF PLANNING AND OBTAINING ZONING AND OTHER NECESSARY
37 APPROVALS, THE ESTIMATED COST OF INFRASTRUCTURE AND OTHER IMPROVEMENTS THAT
38 ARE NECESSARY OR DESIRABLE IN ORDER TO IMPLEMENT THE PLAN OF DEVELOPMENT FOR
39 THE LANDS, THE PROPOSED METHODOLOGY FOR DETERMINING CREDITABLE OR
40 REIMBURSABLE COSTS FOR PLANNING, OBTAINING ZONING AND OTHER NECESSARY
41 APPROVALS OR FOR INFRASTRUCTURE OR IMPROVEMENTS, THE ESTIMATED PHASING AND
42 DISPOSITION PLAN FOR THE LAND, THE ESTIMATED BUILD-OUT SCHEDULE AND OTHER
43 FACTORS AFFECTING THE FINANCIAL FEASIBILITY OF THE PROPOSED PARTICIPATION
44 CONTRACT. THE COMMISSIONER MAY CONDUCT CONFERENCES REGARDING THE PROPOSALS
45 AND ISSUE SUBSEQUENT REQUESTS FOR PROPOSALS TO THE BIDDERS QUALIFIED UNDER

1 SUBSECTION D OF THIS SECTION THAT INCLUDE ADDITIONAL INFORMATION OR
2 REQUIREMENTS.

3 F. A REQUEST UNDER THIS SECTION OR A PARTICIPATION CONTRACT OFFERED AT
4 AUCTION SHALL BE PUBLISHED ONCE EACH WEEK FOR AT LEAST TEN CONSECUTIVE WEEKS
5 IN A NEWSPAPER PUBLISHED REGULARLY AT THE STATE CAPITAL AND IN A NEWSPAPER OF
6 GENERAL CIRCULATION REGULARLY PUBLISHED IN THE COUNTY IN WHICH THE LANDS ARE
7 LOCATED, OR IF THERE IS NO DAILY NEWSPAPER OF GENERAL CIRCULATION IN THAT
8 COUNTY, THEN AS MANY TIMES WITHIN A TEN WEEK PERIOD AS THE NEWSPAPER IS
9 PUBLISHED BUT NOT MORE THAN TEN TIMES.

10 G. IF THE COMMISSIONER QUALIFIES BIDDERS PURSUANT TO SUBSECTION E OF
11 THIS SECTION, OR ISSUES A REQUEST FOR QUALIFICATIONS OR REQUEST FOR
12 PROPOSALS, ONLY THOSE QUALIFIED BIDDERS AND, IF APPLICABLE, RESPONDENTS TO
13 THE REQUESTS FOR PROPOSALS, MAY SUBMIT BIDS AT THE AUCTION PURSUANT TO
14 SUBSECTION H OF THIS SECTION.

15 H. THE COMMISSIONER MAY OFFER A PARTICIPATION CONTRACT AT AUCTION
16 THAT:

17 1. INCORPORATES INFORMATION THAT WAS ACQUIRED THROUGH THE PROPOSAL
18 PROCESS.

19 2. ESTABLISHES THE FIXED ECONOMIC TERMS PURSUANT TO WHICH THE LAND
20 WILL BE OFFERED AT AUCTION, INCLUDING THE MINIMUM SALES PRICE, THE DOWN
21 PAYMENT AND, IF APPLICABLE, THE SHARE OF REVENUE TO BE PAID FROM THE
22 SUBSEQUENT SALE OR LEASE OF THE LAND.

23 3. ESTABLISHES THE VARIABLE ECONOMIC TERMS THAT WILL BE THE SUBJECT OF
24 BIDS SUBMITTED AT THE AUCTION, SUCH AS THE SALES PRICE OF THE LAND OR A
25 MINIMUM FIXED SALES PRICE OF THE LAND PLUS A SHARE OF REVENUES FROM THE
26 SUBSEQUENT SALE OR LEASE OF THE LAND.

27 4. ESTABLISHES A SCHEDULE FOR AND MINIMUM AMOUNTS THAT MUST BE SPENT
28 FOR PLANNING, OBTAINING ZONING AND OTHER NECESSARY APPROVALS FROM AGENCIES
29 AND INSTRUMENTALITIES OF THE UNITED STATES, THIS STATE AND LOCAL PLANNING
30 AGENCIES IN ORDER TO IMPLEMENT THE PLAN OF DEVELOPMENT FOR THE LAND TOGETHER
31 WITH ANY SECURITY FOR THE PAYMENT OF THOSE AMOUNTS OR PROVIDES FOR THOSE
32 TERMS TO BE DETERMINED FOLLOWING THE AUCTION PURSUANT TO PARAGRAPH 7 OF THIS
33 SUBSECTION.

34 5. ESTABLISHES A SCHEDULE FOR AND MINIMUM AMOUNTS THAT MUST BE SPENT
35 FOR CONSTRUCTING INFRASTRUCTURE OR OTHER IMPROVEMENTS THAT ARE NECESSARY OR
36 DESIRABLE IN ORDER TO IMPLEMENT THE PLAN OF DEVELOPMENT FOR THE LAND TOGETHER
37 WITH ANY SECURITY FOR THE PAYMENT OF THOSE AMOUNTS OR PROVIDES FOR THOSE
38 TERMS TO BE DETERMINED FOLLOWING THE AUCTION PURSUANT TO PARAGRAPH 7 OF THIS
39 SUBSECTION.

40 6. PROVIDES FOR THE SUBMISSION OF SEALED BIDS IN ORDER TO DETERMINE
41 THE HIGHEST BID.

42 7. ESTABLISHES A PERIOD OF TIME FOLLOWING THE AUCTION TO NEGOTIATE
43 WITH THE BIDDER THAT SUBMITS THE HIGHEST BID TO ESTABLISH DETAILED TERMS AND
44 CONDITIONS OF THE PARTICIPATION CONTRACT THAT MAY INCLUDE ANY OF THE TERMS

DESCRIBED IN PARAGRAPHS 4 AND 5 OF THIS SUBSECTION AND THAT ARE IN ADDITION TO THE TERMS PURSUANT TO WHICH THE LAND WAS AUCTIONED.

I. IF THE COMMISSIONER ESTABLISHES A PERIOD OF TIME FOLLOWING THE AUCTION TO NEGOTIATE WITH THE BIDDER THAT SUBMITS THE HIGHEST BID TO ESTABLISH DETAILED TERMS AND CONDITIONS OF THE PARTICIPATION CONTRACT AS PRESCRIBED IN SUBSECTION H, PARAGRAPH 7 OF THIS SECTION:

1. IF NEGOTIATIONS PURSUANT TO THIS SUBSECTION ARE CONCLUDED TO THE MUTUAL SATISFACTION OF THE COMMISSIONER AND THE BIDDER WITHIN THE DESIGNATED PERIOD OF TIME, THE COMMISSIONER SHALL RECOMMEND THE TERMS AND CONDITIONS TO THE BOARD OF TRUSTEES FOR APPROVAL AND REPORT ON THE FACTORS THE COMMISSIONER DETERMINES ARE RELEVANT TO THE BOARD'S CONSIDERATION, INCLUDING THE APPLICABLE FACTORS PRESCRIBED IN SUBSECTIONS B AND H OF THIS SECTION.

2. IF NEGOTIATIONS PURSUANT TO THIS SUBSECTION ARE NOT CONCLUDED TO THE MUTUAL SATISFACTION OF THE COMMISSIONER AND THE BIDDER WITHIN THE DESIGNATED PERIOD OF TIME, THE COMMISSIONER MAY EXTEND THE TIME PERIOD OR RECOMMEND TO THE BOARD OF TRUSTEES THE CANCELLATION OF THE SALE OR THAT NEGOTIATIONS WITH THE HIGHEST BIDDER BE SUSPENDED, IN WHICH EVENT THE COMMISSIONER MAY BEGIN NEGOTIATIONS WITH THE NEXT HIGHEST BIDDER.

3. THE AUCTION IS NOT COMPLETE AND THE SUCCESSFUL BIDDER SHALL NOT BE DECLARED UNTIL THE BOARD OF TRUSTEES APPROVES A PARTICIPATION CONTRACT PURSUANT TO THIS SECTION.

J. A participation contract that is entered into pursuant to this ~~subsection shall~~ SECTION:

1. SHALL require the successful bidder to pay a nonrefundable down payment of at least two and one-half per cent of the minimum SALES PRICE FIXED FOR THE LAND OR THE MINIMUM SALES PRICE bid for the property, AS APPLICABLE, plus the required fees prescribed in section 37-108 and, if the successful bidder did not pay the consultant fee pursuant to subsection A of this section, any fee charged pursuant to subsection A of this section, by cashier's check at the time of the auction. The down payment does not include participation payments.

2. IF THE HIGHEST BID IS DETERMINED IN WHOLE OR IN PART BASED ON A MINIMUM SALES PRICE BID FOR THE LAND, SHALL require an additional payment to be made within thirty days if the ~~amount~~ MINIMUM SALES PRICE bid for the land exceeds the minimum bid ESTABLISHED BY THE COMMISSIONER, so that the total down payment, including the down payment paid on the date of the sale, will equal the required percentage ~~down payment of the total amount bid~~ OF THE MINIMUM SALES PRICE BID FOR THE LAND. The additional payment does not include participation payments.

3. SHALL require the successful bidder to post within thirty days after the auction a surety bond or ~~another form of collateral~~ OTHER SECURITY that the commissioner considers to be sufficient to cover the costs of the required planning and OBTAINING zoning AND OTHER NECESSARY APPROVALS.

1 4. SHALL provide for the forfeiture of the contract and any
2 accompanying certificate of purchase or lease if the successful bidder fails
3 to provide the required ~~collateral~~ SECURITY.

4 5. SHALL describe the land to be planned and zoned, which may include
5 land that is retained by the department and THAT IS not auctioned with the
6 PARTICIPATION contract.

7 6. SHALL contain guidelines for expected planning, and OBTAINING
8 ZONING AND OTHER NECESSARY APPROVALS, AND CONSTRUCTING REQUIRED
9 INFRASTRUCTURE OR OTHER IMPROVEMENTS and time frames for ~~the planning and~~
10 ~~zoning~~ THOSE REQUIREMENTS consistent with the guidelines.

11 7. SHALL provide for the forfeiture of the contract and any
12 accompanying certificate of purchase or lease if the successful bidder fails
13 to accomplish the planning, and OBTAIN zoning, OBTAIN OTHER NECESSARY
14 APPROVALS OR FAILS TO CONSTRUCT ANY REQUIRED IMPROVEMENTS within the
15 prescribed time, unless extended in writing by the commissioner based on good
16 cause shown.

17 ~~8. Require at least ten per cent of the total purchase price to be~~
18 ~~paid by the time the planning and zoning are completed, unless extended in~~
19 ~~writing by the commissioner based on good cause shown.~~

20 ~~9.~~ 8. SHALL provide for absolute approval authority by the
21 commissioner of any planning and zoning actions THAT ARE NOT SPECIFIED IN THE
22 PARTICIPATION CONTRACT.

23 ~~10. Deny the successful bidder the right to physically develop the~~
24 ~~property, including grading or leveling, until at least ten per cent of the~~
25 ~~purchase price has been paid.~~

26 9. SHALL PROVIDE THAT THE SUBSEQUENT SALE OR LEASE OF THE LAND SHALL
27 BE BASED ON THE CRITERIA AND THE PHASING AND DISPOSITION PLAN INCLUDED IN THE
28 PARTICIPATION CONTRACT.

29 ~~11.~~ 10. SHALL deny the issuance of partial patents for the property
30 until ~~at least ten per cent~~ AN AMOUNT HAS BEEN PAID TO THE TRUST THAT IS
31 EQUAL TO A PERCENTAGE ESTABLISHED BY THE COMMISSIONER of the ~~purchase price~~
32 ~~has been paid and the requirements of section 37-251 have been met~~ MINIMUM
33 SALES PRICE FIXED FOR THE LAND OR THE MINIMUM SALES PRICE BID FOR THE LAND,
34 AS APPLICABLE, WHICH, IF SPECIFIED IN THE PARTICIPATION CONTRACT, MAY BE
35 OFFSET BY AMOUNTS ADVANCED TO PAY THE REQUIRED AMOUNTS FOR PLANNING,
36 OBTAINING ZONING AND OTHER NECESSARY APPROVALS OR CONSTRUCTING INFRASTRUCTURE
37 OR OTHER IMPROVEMENTS.

38 11. SHALL PRESCRIBE RIGHTS AND REMEDIES IN THE CASE OF DEFAULT,
39 INCLUDING RIGHTS TO CURE, FORFEITURE AND OTHER APPROPRIATE REMEDIES.

40 12. SHALL contain ~~such~~ other terms that the commissioner considers to
41 be necessary or appropriate.

42 ~~F. After it is accepted by the commissioner, a planning and zoning~~
43 ~~proposal submitted to the local governing body by the successful bidder shall~~
44 ~~be administered as a state general plan or development plan as appropriate,~~
45 ~~according to the procedures described in article 5.1 of this chapter.~~

1 K. THE PROCESS OF OFFERING, APPROVING AND AWARDED PARTICIPATION
2 CONTRACTS PURSUANT TO THIS SECTION IS EXEMPT FROM TITLE 41, CHAPTER 23.

3 Sec. 22. Section 37-240, Arizona Revised Statutes, is amended to read:

4 37-240. Limitations on amount of land one person may purchase

5 A. No person may purchase more than six hundred forty acres of LAND
6 CLASSIFIED FOR grazing ~~land~~, or more than one hundred sixty acres of
7 ~~agricultural~~ land. ~~CLASSIFIED FOR AGRICULTURE, EXCEPT FOR:~~

8 1. DISPOSITIONS OF CONSERVATION RESERVE LAND.

9 2. THE DISPOSITION OF TRUST LAND PURSUANT TO SECTION 37-236.01.

10 B. No sales, leases or subleases of state lands shall be made to
11 corporations or associations THAT ARE not qualified to transact business in
12 the state.

13 Sec. 23. Section 37-241, Arizona Revised Statutes, is amended to read:

14 37-241. Terms of sale of state land; payment; interest rate

15 A. The terms of sale of state land are as follows:

16 1. At least ten per cent, ~~but not more than twenty-five per cent,~~ of
17 the appraised value, as stated in the auction notice, which shall be applied
18 to principal, together with the required fees prescribed by section 37-108,
19 shall be paid by cashier's check upon announcement of the successful bidder,
20 ~~EXCEPT FOR:~~

21 (a) SALES PURSUANT TO SECTION 37-239.

22 (b) DISPOSITIONS OF CONSERVATION RESERVE LANDS.

23 (c) THE DISPOSITION OF TRUST LAND PURSUANT TO SECTION 37-236.01.

24 2. If the amount bid for the land exceeds the appraised value, further
25 payment shall be made within thirty days so that the total amount paid
26 including the amount paid on the date of sale shall equal the percentage of
27 the bid, as stated in the auction notice, which shall be allocated to
28 principal, together with the required fees prescribed under section 37-108.

29 B. Upon payment of the amounts provided in subsection A of this
30 section, and upon compliance by the purchaser with the requirements of this
31 article, and the payment of the fees under section 37-108, a certificate of
32 purchase shall issue as provided in section 37-244. ~~On full payment for the~~
33 ~~entire tract of land sold within thirty days after the auction, the~~
34 ~~department shall issue a patent as provided in section 37-251.~~

35 C. If the purchaser fails to complete the payment of the percentage of
36 the bid stated in the auction notice, together with the fees required by
37 section 37-108, or to enter into a contract of sale within the time provided
38 in the certificate of purchase offered by the department:

39 1. The purchaser forfeits all amounts paid, including:

40 (a) All payments made on the purchase price, which shall be deemed to
41 be rental for the land.

42 (b) All amounts paid under section 37-108.

43 2. The commissioner may declare that the bid placed before the final
44 bid accepted is the highest bid, and that bidder has five business days after

notification by the department to pay by cashier's check all amounts due under this section and section 37-108.

D. The balance of the purchase price is payable as follows:

1. The commissioner shall establish prior to the notice of sale the length of the term over which the balance shall be paid, **THE PAYMENT SCHEDULE** and whether a variable or fixed interest rate is appropriate. **THE TERM SHALL NOT EXCEED TWENTY-FIVE YEARS.** This determination shall be based on the nature of the land being sold and general market conditions in effect at the time.

2. After establishing the length of the term and whether a fixed or variable rate is appropriate, the commissioner shall ~~notify the state treasurer to~~ establish the interest rate after consideration of ~~local prevailing prime interest rates and mortgage rates and the maximum amount of interest set by statute by this state, if any~~ **REAL ESTATE AND FINANCIAL MARKET CONDITIONS.**

3. If a variable rate is established, the interest rate charged a purchaser may vary from year to year. The department shall annually notify each purchaser of the interest rate ~~specified by the state treasurer~~ to be paid by the purchaser for the following year and the total amount of interest payable the following year with the purchaser's ~~annual payment~~ **PAYMENTS.**

~~E. The commissioner shall establish prior to the notice of sale the length of the term over which the balance shall be paid. The term shall not exceed twenty-five years.~~

~~F.~~ **E.** The length of term, **AND** interest rate and whether the rate is variable or fixed shall be considered terms of the sale to be included in the notice required by section 37-237.

~~G.~~ **F.** The purchaser may discharge the entire debt at any time and be entitled to a patent for the land if the purchaser pays the entire purchase price, together with the applicable fees, and demonstrates that all terms and conditions of the certificate of purchase have been satisfied.

Sec. 24. Section 37-244, Arizona Revised Statutes, is amended to read: **37-244. Certificate of purchase; conditions**

A. Upon compliance by a purchaser of state lands with the requirements of this article, the department shall make and deliver to the purchaser a certificate of purchase, which shall set forth:

1. The name of the purchaser.
2. A description of the entire tract of land purchased.
3. The amount paid.
4. The amount paid for improvements, if any.
5. The amount remaining due.

6. The date when each of the deferred payments falls due, the amount of each deferred payment and the rate of interest on the first deferred payment.

7. An agreement by the purchaser ~~that he will pay~~ **FOR THE PAYMENT OF** taxes, ~~water~~ assessments and other charges ~~which~~ **THAT** may be assessed against the land.

B. Each certificate of purchase shall be signed by the commissioner or ~~his~~ **THE COMMISSIONER'S** deputy and by the purchaser, and shall contain the following covenants in addition to any others imposed pursuant to section ~~37-132~~ **37-152**:

1. That the purchaser will not permit any loss or commit any waste to or upon the lands.

2. That any right to the use of water appurtenant to the lands shall be maintained to prevent the forfeiture or abandonment of the right.

3. That all taxes **AND ASSESSMENTS** levied against the land and all construction and maintenance charges of a United States reclamation project from which the lands may receive water will be promptly paid.

4. That all things will be done to ~~insure~~ **ENSURE** the acquisition and maintenance of the rights and the use of the water, except if the successful irrigation of lands susceptible to irrigation from works constructed or controlled by the United States government is not dependent upon the irrigation works it shall not be necessary to acquire and maintain water rights ~~on such lands~~.

~~C. After sale of state land and issuance of a certificate of purchase, the department shall not issue a certificate of purchase that covers only a part of the entire tract of land sold for the purposes of obtaining a patent to part of the land.~~

Sec. 25. Section 37-251, Arizona Revised Statutes, is amended to read:

37-251. Issuance of patents for state lands

A. Upon filing the certificate of purchase, together with evidence of full payment of principal and interest, **EXCEPT FOR CONSIDERATION CONSISTING OF A SHARE OF REVENUES GENERATED BY SUBSEQUENT LEASES OR SALES PURSUANT TO SECTION 37-239**, for the entire tract of land sold, and evidence that all terms and conditions of the certificate of purchase have been satisfied, the department shall issue to the purchaser a patent under the seal of the state, signed by the ~~governor and countersigned by the secretary of state~~ **COMMISSIONER**.

B. **IF PROVIDED FOR PURSUANT TO THE TERMS OF THE CERTIFICATE OF PURCHASE**, on application by the purchaser a patent for less than the entire tract may be issued to the purchaser if the commissioner finds that it is in the best interest of the applicable trust, subject to the following:

1. The parcel to be patented may consist of one or more pieces of land, described either by metes and bounds or by legal subdivision.

~~2. A patent shall not be issued for less than one-fourth of the tract sold or less than ten acres, whichever is smaller, except that:~~

~~(a) If the original tract is less than forty acres, a patent may be issued for parcels of not less than five acres each.~~

~~(b) In the case of a right of way the actual parcel needed for the right of way may be patented.~~

~~3.~~ 2. EXCEPT AS OTHERWISE PROVIDED BY THE TERMS OF A CERTIFICATE OF PURCHASE:

(a) Before any parcel less than the entire tract is patented the department shall determine that the remaining lands are of greater value than the unpaid balance of the certificate of purchase and that the remaining lands have development potential independent of the acreage that is being patented.

(b) Before patenting, the commissioner shall require to be paid an amount, on the lands to be patented, in excess of the purchase price OR AUCTION PRICE, AS APPLICABLE, per acre of the entire tract until the total price of the entire tract has been paid. In establishing the amount to be paid for the partial patent the commissioner shall take into account the amount of the down payment made on the entire tract AND MAY TAKE INTO ACCOUNT AMOUNTS ADVANCED TO PAY THE COSTS OF PLANNING, OBTAINING ZONING AND OTHER NECESSARY APPROVALS OR CONSTRUCTING IMPROVEMENTS PURSUANT TO A PARTICIPATION CONTRACT UNDER SECTION 37-239.

3. Nothing in ~~this~~ paragraph 2:

(a) Affects certificates of purchase issued before September 30, 1988.

(b) PREVENTS CONSERVATION RESERVE LANDS OR TRUST LAND THAT IS DISPOSED PURSUANT TO SECTION 37-236.01 FROM BEING PATENTED ON DISPOSITION.

4. When paid, the partial purchase price shall be credited on the total purchase price stated in the certificate of purchase. The department may issue a supplement to the certificate of purchase deleting the land patented and reducing the amount of each of the remaining annual installments to ~~that~~ AN amount ~~which~~ THAT, when all installments are paid in full, will discharge the entire unpaid balance due on the original certificate of purchase.

C. Any land patented under this section is subject to existing valid rights-of-way.

D. If the purchaser has died, and the land described has been sold and confirmed by order of court, the patent shall be issued to the purchaser to whom confirmation of sale was made. If the estate of the deceased person is distributed by order of the court, the patent shall be issued to the heirs of the deceased person, or to the person to whom the lands are distributed. Patents issued to a deceased person shall inure to the benefit of the heirs or assigns of the deceased person.

E. If an assignment of the certificate of purchase has been filed with and approved by the department, the patent shall be issued to the assignee, and if proper evidence of a transfer of the certificate by operation of law is filed with the department, the patent shall be issued to the transferee.

F. A record of all patents issued shall be kept in the records of the department.

1 Sec. 26. Section 37-261, Arizona Revised Statutes, is amended to read:
2 37-261. Authority to auction reversion rights

3 A. If this state has held a right of reversion with respect to any
4 land sold under this article for ten years without exercise or encumbrance,
5 EXCEPT WITH RESPECT TO ANY RIGHT OF REVERSION HELD PURSUANT TO SECTION
6 37-236.01 OR ARTICLE 5.2 OF THIS CHAPTER, the commissioner may order the
7 right of reversion to be appraised and offered for sale at public
8 auction. The commissioner shall prescribe a minimum acceptable bid.

9 B. The purchaser shall agree in writing to indemnify and hold harmless
10 this state, the department and the commissioner against all liability with
11 respect to the land.

12 C. The commissioner shall deposit, pursuant to sections 35-146 and
13 35-147, the revenues from the sale in the appropriate fund under article 13
14 of this chapter.

15 Sec. 27. Section 37-286.01, Arizona Revised Statutes, is amended to
16 read:

17 37-286.01. Duty to exclude unauthorized livestock bond;
18 damages; injunction

19 A. Notwithstanding ~~the provisions of~~ title 3, chapter 11, article 8,
20 if the commissioner leases land located within the boundaries of a fenced
21 range to a person other than the prior state grazing lessee, the new lessee
22 shall exclude unauthorized livestock grazing by fencing the exterior boundary
23 of the state land or by any other means that the commissioner considers to be
24 suitable. The commissioner may require the new lessee to post a bond
25 sufficient to cover the cost of the fence construction.

26 B. If the new lessee referred to in subsection A of this section fails
27 to fence the exterior boundaries of the state land, or otherwise exclude
28 unauthorized livestock from the state land, within the time for compliance
29 with the fencing requirements set forth in the lease conditions prescribed by
30 the department, the failure constitutes a default on the lease and the new
31 lessee is subject to default proceedings pursuant to section 37-289 and, if a
32 bond was required pursuant to subsection A of this section, the bond may be
33 forfeited on cancellation of the lease.

34 C. The commissioner shall include the requirements imposed by this
35 section in the terms of all new leases to which this section applies.

36 D. If the commissioner withdraws state land from lease pursuant to
37 section ~~37-132~~ 37-152, subsection A, paragraph ~~11~~ 12, because the land may
38 pose a threat to human health and cannot be used for livestock grazing, and
39 the land is located within the boundaries of a fenced range, either the
40 commissioner or the party responsible for causing the land to be withdrawn
41 shall be responsible for excluding unauthorized livestock from grazing on the
42 land. The lessee may not exercise the preferred right pursuant to section
43 37-291 to renew a lease on the land withdrawn.

44 E. Until livestock are excluded from the state land pursuant to this
45 section, or during the pendency of the lease default for failure to exclude

1 livestock pursuant to subsection B of this section, the unauthorized grazing
2 of livestock on state land within the fenced range shall not constitute
3 trespass pursuant to section 37-501 or wilful trespass pursuant to section
4 37-502, subsection A or B, but shall constitute prima facie evidence of
5 casual or involuntary trespass pursuant to section 37-502, subsection A. The
6 monetary damages for the unauthorized grazing of livestock under this
7 subsection shall be limited to the greater of the carrying capacity of the
8 state land for the period of unauthorized grazing as expressed in animal unit
9 months or the actual animal unit months of unauthorized grazing actually
10 determined to have occurred on the ~~state~~ land, multiplied by the grazing fee,
11 as most recently determined by the state grazing land valuation commission
12 pursuant to section 37-285, subsection E. The commissioner may seek to
13 enjoin the unauthorized grazing of livestock, and ~~the provisions of~~ sections
14 37-501 and 37-502 apply on the occurrence of any of the following:

15 1. The number of unauthorized livestock exceeds the carrying capacity
16 of the fenced range that includes the state land.

17 2. The owner of the unauthorized livestock does not agree to pay the
18 monetary damages authorized by this subsection.

19 3. The lease is canceled pursuant to subsection B of this section and
20 the owner of the unauthorized livestock fails to apply for the lease when
21 requested by the commissioner or accept the offer by the commissioner for a
22 lease on the state land.

23 4. The owner of unauthorized livestock intentionally hinders the
24 fencing of state land pursuant to subsection A or D of this section.

25 F. Nothing in subsection E of this section shall limit the ability of
26 the commissioner to enjoin unauthorized activities other than grazing that
27 may damage or decrease the value of the state land or otherwise impede the
28 management of the state land.

29 Sec. 28. Section 37-287, Arizona Revised Statutes, is amended to read:
30 37-287. Reservation of rights in state land leases

31 A. Unless the rights and interests described in this section are
32 specifically included in a particular lease, all leases of state lands shall
33 expressly except and reserve to the state:

34 1. All oils, gases, geothermal resources, coal, ores, minerals,
35 fertilizer and fossils of every kind, which may be in or upon the land
36 leased.

37 2. Any legal claim existing or which may be established under the
38 mineral land laws of the United States or the state.

39 3. The right to enter upon the land for the purpose of exploring for
40 those commodities or extracting any or all of ~~such~~ THOSE commodities from the
41 land.

42 4. The right to relinquish to the United States lands needed for
43 irrigation works in connection with a government reclamation project, and to
44 grant or dispose of rights-of-way and sites for canals, reservoirs, dams,

1 power or irrigating plants or works, railroads, tramways, transmission lines
2 or any other purpose or use on or over the land.

3 B. The reservations of rights required in subsection A do not apply to
4 existing or future leases ~~under article 5.1 of this chapter~~ OF URBAN LANDS,
5 except as required by the state constitution, the enabling act or the
6 commissioner acting in the best ~~interests~~ INTEREST of the ~~state lands~~ TRUST.

7 C. If the state reserves the rights described in subsection A, the
8 lease shall provide for reasonable compensation to the lessee for any damage
9 resulting from the exercise of those rights.

10 Sec. 29. Section 37-290, Arizona Revised Statutes, is amended to read:

11 37-290. Cancellation of lease by reclassification of lands;
12 preferred right to lease reclassified land; refund of
13 advance rental payments

14 A. Upon reclassification of state lands, whether upon application for
15 reclassification or upon initiation by the commissioner, notice of the
16 decision shall be served upon all interested parties of record in the
17 department. ~~If no appeal from the reclassification is taken as provided for~~
18 ~~by law, or if the decision of the commissioner is upheld on appeal,~~ EXCEPT AS
19 OTHERWISE PROVIDED IN SECTION 37-212, SUBSECTION D, any lease upon the land
20 reclassified shall be automatically cancelled, and the land offered for lease
21 in the same manner as if it had not been previously leased.

22 B. A lessee, ~~or~~ or an applicant for renewal of a lease at the time of
23 the notice of ~~the~~ A reclassification THAT RESULTS IN CANCELLATION shall have
24 a preferred right to lease the reclassified land at the reappraised rental
25 thereof for a term not longer than ten years as determined by the
26 department. The preferred right to lease does not extend to a lessee who has
27 not substantially complied with the terms of ~~his~~ THE lease or who has not
28 placed the land to the use prescribed in the lease during the term of the
29 lease or within the time prescribed in the lease, except when that action was
30 excused for good cause by written authorization by the department.

31 C. Upon cancellation of the lease of reclassified lands, if the land
32 as reclassified is leased to a person other than the existing lessee or
33 applicant for a renewal lease, the unused pro rata of an advance rental
34 payment made by the existing lessee shall be refunded to ~~such~~ THE lessee, and
35 the lessee shall be protected in improvements on the land owned by the lessee
36 in the same manner as provided in section 37-322.01.

37 Sec. 30. Section 37-301, Arizona Revised Statutes, is amended to read:

38 37-301. Procedure for protesting auctions

39 A. Any person who desires to protest any of the terms of a proposed
40 auction for the sale of state land, the lease of state land, ~~or~~ or the sale of
41 natural products of state land shall file a written protest with the
42 department within thirty days after the first day of publication of the terms
43 of the proposed auction. All protests shall state specifically the term or
44 terms of the auction to which objection is made and state specifically the

1 reasons for each objection. An objection not specifically stated or timely
2 made is deemed to be waived.

3 B. At ~~his~~ THE COMMISSIONER'S discretion, the commissioner, on ten
4 days' notice, may order a hearing on any protest. Whether or not a hearing
5 is held, the commissioner, not less than seven days before the auction date,
6 shall enter a final order determining the validity of the protests. If the
7 commissioner determines that a protest is correct, the pending auction shall
8 be cancelled. If the commissioner determines that the grounds of protest are
9 incorrect, the auction shall proceed at the time and place for which it was
10 noticed.

11 C. Notwithstanding section ~~37-133~~ 37-153, the commissioner's order
12 granting or denying a protest is subject to review only through a special
13 action to the court of appeals or supreme court, served on the department
14 within twenty days after the commissioner's order is entered. Notwithstanding
15 any law or rule applicable to other orders of the commissioner, no motion for
16 rehearing is required before seeking review of an order of the commissioner
17 rejecting a protest to the terms of an auction. Any rehearing motion shall
18 be filed within ten days of the entry of the commissioner's order. Unless
19 otherwise ordered by the commissioner, the filing of a motion for rehearing
20 does not extend the time for seeking review of the commissioner's order
21 granting or denying a protest. Unless the commissioner orders a rehearing
22 within five days after the rehearing motion is filed, the rehearing motion is
23 deemed denied. If a special action review is not sought within twenty days
24 after the commissioner enters ~~his~~ AN order granting or denying a protest, or
25 if the commissioner's order is sustained on special action review and the
26 decision becomes final, no further action contesting the legality of the
27 terms of the auction may be brought.

28 Sec. 31. Repeal

29 Title 37, chapter 2, articles 4.2 and 5.1, Arizona Revised Statutes,
30 are repealed.

31 Sec. 32. Title 37, chapter 2, Arizona Revised Statutes, is amended by
32 adding a new article 5.1 and article 5.2, to read:

33 ARTICLE 5.1. PLANNING FOR TRUST LAND

34 ~~37-331.~~ Conceptual planning required before disposition of
35 trust land

36 THE COMMISSIONER SHALL NOT OFFER TRUST LAND FOR SALE OR LEASE FOR
37 COMMERCIAL PURPOSES BEFORE A CONCEPTUAL PLAN HAS BEEN INTEGRATED INTO A
38 GENERAL PLAN OR COMPREHENSIVE PLAN PURSUANT TO THIS ARTICLE, EXCEPT AS
39 PROVIDED BY SECTIONS 37-236.01 AND 37-336.01.

40 ~~37-331.01.~~ Conceptual plans; commissioner's duties; development
41 suitability analysis

42 A. THE COMMISSIONER SHALL PREPARE AND, IF APPROPRIATE, SHALL AMEND
43 CONCEPTUAL PLANS FOR:

1 1. ALL TRUST LAND LOCATED WITHIN THE TERRITORY OF EACH CITY AND TOWN,
2 INCLUDING TRUST LAND THAT IS THE SUBJECT OF A GENERAL PLAN OR AN AMENDMENT TO
3 A GENERAL PLAN REQUIRED PURSUANT TO SECTION 9-461.05.

4 2. TRUST LAND LOCATED IN AN UNINCORPORATED AREA AND INCLUDED IN AN
5 EXISTING CONCEPTUAL PLAN IF THE TRUST LAND IS THE SUBJECT OF A COMPREHENSIVE
6 PLAN OR AN AMENDMENT TO A COMPREHENSIVE PLAN REQUIRED PURSUANT TO SECTION
7 11-821.

8 3. ALL TRUST LAND INCLUDED IN THE FIVE YEAR DISPOSITION PLAN.

9 4. OTHER TRUST LAND THE COMMISSIONER DETERMINES TO BE APPROPRIATE.

10 B. THE COMMISSIONER SHALL:

11 1. PRIORITIZE THE PREPARATION OF CONCEPTUAL PLANS TO:

12 (a) MAXIMIZE THE INCOME TO THE TRUST.

13 (b) COINCIDE WITH THE PREPARATION AND AMENDMENT OF GENERAL PLANS AND
14 COMPREHENSIVE PLANS AS PROVIDED IN SUBSECTION A OF THIS SECTION.

15 (c) COINCIDE WITH THE RESERVE PERIODS FOR PROVISIONAL RESERVE LANDS TO
16 FACILITATE THE DETERMINATION OF THE ECONOMIC VALUE AND DISPOSITION OF THE
17 LAND PURSUANT TO SECTION 37-336.02 BEFORE THE EXPIRATION OF THE APPLICABLE
18 RESERVE PERIODS ESTABLISHED PURSUANT TO SECTION 37-336.02, SUBSECTION B.

19 2. AMEND EACH CONCEPTUAL PLAN AS THE COMMISSIONER DETERMINES IS
20 APPROPRIATE OR REQUIRED PURSUANT TO THIS ARTICLE.

21 3. NOTIFY THE LOCAL PLANNING AUTHORITY OF THE COMMISSIONER'S INTENT TO
22 PREPARE OR AMEND A CONCEPTUAL PLAN FOR TRUST LAND.

23 4. COOPERATE WITH THE LOCAL PLANNING AUTHORITY REGARDING PREPARATION
24 OF A CONCEPTUAL PLAN AND THE GENERAL PLAN, OR AN AMENDMENT TO A GENERAL PLAN,
25 OR A COMPREHENSIVE PLAN AND SHALL EXCHANGE PROCEDURAL AND TECHNICAL
26 INFORMATION WITH THE LOCAL PLANNING AUTHORITY. THE COMMISSIONER MAY CONSIDER
27 THE PROPOSED POLICIES IN THE ELEMENTS ADDRESSED IN THE GENERAL PLAN OR
28 COMPREHENSIVE PLAN.

29 5. ACCEPT WRITTEN COMMENTS FROM THE PUBLIC BEFORE COMPLETING A
30 CONCEPTUAL PLAN.

31 C. EACH CONCEPTUAL PLAN SHALL DESIGNATE LANDS THAT ARE SUITABLE FOR
32 DEVELOPMENT. THE PLAN SHALL BE PREPARED ACCORDING TO THE GENERALLY
33 APPLICABLE ORDINANCES, RULES AND REGULATIONS OF THE LOCAL PLANNING AUTHORITY
34 IF THOSE ORDINANCES, RULES AND REGULATIONS APPLY EQUALLY TO SIMILARLY
35 SITUATED PRIVATE PROPERTY. THE COMMISSIONER MAY CONSIDER SUCH OTHER RELEVANT
36 FACTORS AS:

37 1. GEOLOGIC AND TOPOGRAPHIC CHARACTERISTICS OF THE LAND:

38 (a) SLOPE ANALYSIS.

39 (b) LAND SUBSIDENCE AND EARTH FISSURE AREAS.

40 (c) FAULTS.

41 (d) A HIGH POTENTIAL FOR MINERAL RESERVES.

42 2. FLOODPLAINS AND WASHES:

43 (a) FEDERALLY DESIGNATED ONE HUNDRED-YEAR FLOOD ZONES.

44 (b) MAJOR WASHES.

45 (c) MINOR WASHES.

1 3. FEDERALLY DESIGNATED CRITICAL HABITATS.
2 4. FEDERALLY DESIGNATED ENDANGERED SPECIES OCCURRENCES.
3 5. NATURAL AND MANMADE HAZARDS:
4 (a) HAZARDOUS WASTE SITES.
5 (b) LANDFILLS.
6 (c) OTHER NATURAL AND MANMADE HAZARDS AFFECTING THE SUITABILITY OF
7 LANDS FOR DEVELOPMENT.
8 6. CULTURAL RESOURCES:
9 (a) ARCHAEOLOGICAL RESOURCES.
10 (b) HISTORICAL RESOURCES.
11 (c) PALEONTOLOGICAL RESOURCES.
12 7. THE GENERAL LOCATION AND EXTENT OF EXISTING AND PROPOSED
13 TRANSPORTATION, WATER, SEWER AND OTHER INFRASTRUCTURE.
14 D. LANDS THAT ARE NOT IDENTIFIED AS SUITABLE FOR DEVELOPMENT MUST BE
15 DESIGNATED AS SUITABLE FOR CONSERVATION. CONCEPTUAL PLANS MAY DESIGNATE
16 LANDS AS SUITABLE FOR CONSERVATION BEYOND THAT REQUIRED BY THIS SECTION
17 PURSUANT TO SECTION 37-331.02.
18 E. IF A CONCEPTUAL PLAN AND THE LAND USE ELEMENT OF THE GENERAL OR
19 COMPREHENSIVE PLAN ARE THE SAME RELATIVE TO THE TRUST LAND, THE LOCAL
20 PLANNING AUTHORITY SHALL TAKE ACTION PURSUANT TO SECTION 9-461.06 OR SECTION
21 11-821 TO INTEGRATE THE CONCEPTUAL PLAN INTO THE GENERAL PLAN OR
22 COMPREHENSIVE PLAN. THE FINAL INTEGRATED PLAN SHALL BE SUBMITTED TO THE
23 BOARD OF TRUSTEES FOR APPROVAL.
24 F. IF A CONCEPTUAL PLAN AND THE LAND USE ELEMENT OF THE GENERAL PLAN
25 OR COMPREHENSIVE PLAN ARE NOT THE SAME RELATIVE TO THE TRUST LAND, AND THE
26 COMMISSIONER AND THE LOCAL PLANNING AUTHORITY CANNOT AGREE ON THE INTEGRATION
27 OF THE PLANS, THE GOVERNING BODY OF THE COUNTY, CITY OR TOWN, OR THE
28 COMMISSIONER WITH THE APPROVAL OF THE BOARD OF TRUSTEES, MAY SUBMIT THE
29 COMPONENTS OF THE PLAN THAT ARE IN DISPUTE TO MEDIATION AND ARBITRATION, OR
30 DIRECTLY TO ARBITRATION, PURSUANT TO SECTION 37-331.04.
31 G. ON THE LOCAL PLANNING AUTHORITY'S ADOPTION OR RATIFICATION, IF
32 APPLICABLE, OF A GENERAL PLAN OR COMPREHENSIVE PLAN THAT IS CONSISTENT WITH
33 THE FINAL CONCEPTUAL PLAN, THE COMMISSIONER SHALL RECLASSIFY ALL LAND WITHIN
34 THE CONCEPTUAL PLAN AREA AS EITHER SUITABLE FOR DEVELOPMENT OR SUITABLE FOR
35 CONSERVATION AND SHALL DOCUMENT THE CHARACTERISTICS THAT LED TO THE
36 DESIGNATION OF LANDS AS SUITABLE FOR CONSERVATION.
37 H. IF THE LAND USE ELEMENT OF A GENERAL OR COMPREHENSIVE PLAN OF A
38 CITY, TOWN OR COUNTY IS THE SAME AS THE CONCEPTUAL PLAN ADOPTED BEFORE THE
39 EFFECTIVE DATE OF THIS SECTION FOR THE TRUST LAND THAT IS INCLUDED IN THE
40 PLAN, THE CONCEPTUAL PLAN SHALL BE CONSIDERED TO MEET THE REQUIREMENTS OF
41 THIS SECTION, INCLUDING FOR PURPOSES OF SECTION 37-336.03. IF THE CONCEPTUAL
42 PLAN DESIGNATES LAND FOR OPEN SPACE OR OTHER CONSERVATION PURPOSES BEYOND
43 THAT WHICH WOULD BE REQUIRED UNDER THIS SECTION, THAT LAND SHALL BE TREATED
44 AS ADDITIONAL LANDS DESIGNATED AS SUITABLE FOR CONSERVATION PURSUANT TO
45 SECTION 37-331.02.

1 37-331.02. Additional trust land designated as suitable for
2 conservation

3 A. IN ORDER TO FACILITATE OBTAINING THE ECONOMIC VALUE OF TRUST LAND
4 WHILE PROVIDING ADDITIONAL LANDS FOR CONSERVATION, AT THE REQUEST OF THE
5 LOCAL PLANNING AUTHORITY OR ON THE MUTUAL AGREEMENT OF THE COMMISSIONER AND
6 THE LOCAL PLANNING AUTHORITY, THE COMMISSIONER SHALL DESIGNATE ADDITIONAL
7 TRUST LAND AS SUITABLE FOR CONSERVATION BEYOND THAT WHICH WOULD BE DESIGNATED
8 FOR THAT PURPOSE PURSUANT TO SECTION 37-331.01, IF:

9 1. THE REQUEST IS MADE OR THE MUTUAL AGREEMENT OCCURS WITHIN ONE YEAR
10 AFTER THE LAND IS INCLUDED IN A FIVE YEAR DISPOSITION PLAN PURSUANT TO
11 SECTION 37-331.05.

12 2. THE TRUST LAND THAT IS THE SUBJECT OF A REQUEST OR TRUST LAND IN
13 THE VICINITY OF THAT LAND HAS NOT BEEN THE SUBJECT OF A PREVIOUS REQUEST THAT
14 HAS BEEN DENIED BY THE BOARD OF TRUSTEES FOLLOWING THE INDEPENDENT APPRAISAL
15 PROCESS PURSUANT TO SECTION 37-331.03.

16 3. THE TRUST LAND THAT IS THE SUBJECT OF THE REQUEST OR AGREEMENT IS
17 PROVISIONAL RESERVE LAND AND THE RESERVE PERIOD FOR THE LAND HAS NOT EXPIRED,
18 OR THE TRUST LAND OTHERWISE HAS DOCUMENTED VALUE FOR CONSERVATION OR NATURAL
19 OPEN SPACE, CONSIDERING THE FOLLOWING FACTORS:

20 (a) SURFACE WATER AND GROUNDWATER:

21 (i) SPRING OR OTHER WETLAND.

22 (ii) SURFACE WATER FEATURES SUCH AS PERENNIAL, INTERMITTENT OR
23 EPHEMERAL FLOWS.

24 (iii) LAKES.

25 (iv) AQUIFERS KNOWN TO SUPPORT SURFACE WATER FEATURES AND RIPARIAN
26 HABITAT.

27 (b) WILDLIFE AND VEGETATION:

28 (i) WILDLIFE HABITAT, INCLUDING MOVEMENT CORRIDORS.

29 (ii) RIPARIAN HABITAT.

30 (iii) VEGETATION TYPES.

31 (c) CONNECTIVITY TO EXISTING PROTECTED OPEN SPACE.

32 (d) PROMINENT LOCAL LANDMARKS.

33 (e) EXISTING TRAILS.

34 (f) OTHER CRITERIA THAT THE BOARD OF TRUSTEES MAY APPROVE ON THE
35 COMMISSIONER'S RECOMMENDATION.

36 4. THE ECONOMIC VALUE OF THE ADDITIONAL TRUST LAND IS DETERMINED
37 PURSUANT TO SECTION 37-331.03.

38 5. THE COMMISSIONER AND THE LOCAL PLANNING AUTHORITY NEGOTIATE A
39 DEVELOPMENT AGREEMENT PURSUANT TO SECTION 9-500.05 OR 11-1101 THAT ADDRESSES
40 THE ADDITIONAL LANDS AND ANY ADJACENT OR CONTIGUOUS TRUST LAND THAT THE
41 COMMISSIONER DETERMINES IS APPROPRIATELY THE SUBJECT OF THE AGREEMENT. THE
42 AGREEMENT SHALL:

43 (a) DOCUMENT THE TERMS AND CONDITIONS PURSUANT TO WHICH THE ECONOMIC
44 VALUE OF THE ADDITIONAL TRUST LAND WILL BE PROVIDED.

1 (b) IF ANY PORTION OF THE CONSIDERATION IS A DEFERRED MONETARY
2 PAYMENT, DOCUMENT THE SECURITY PROVIDED FOR THE PAYMENT.

3 (c) INCLUDE ANY ADDITIONAL PROVISIONS AS AGREED ON BY THE PARTIES.

4 6. THE LOCAL PLANNING AUTHORITY HAS TAKEN ALL ACTION NECESSARY TO
5 AUTHORIZE THE DEVELOPMENT AGREEMENT PURSUANT TO PARAGRAPH 5.

6 7. THE BOARD OF TRUSTEES HAS APPROVED THE TERMS AND CONDITIONS OF THE
7 DEVELOPMENT AGREEMENT PURSUANT TO PARAGRAPH 5 AND DETERMINES THAT, ON THE
8 EXECUTION OF THE AGREEMENT BY THE LOCAL PLANNING AUTHORITY, THE AGREEMENT
9 WILL:

10 (a) PROVIDE THE ECONOMIC VALUE FOR THE ADDITIONAL TRUST LAND.

11 (b) CONSTITUTE A BINDING AND ENFORCEABLE OBLIGATION OF THE LOCAL
12 PLANNING AUTHORITY.

13 (c) PROVIDE AMPLE SECURITY FOR ANY DEFERRED MONETARY PAYMENT.

14 B. ON FINAL APPROVAL OF THE DEVELOPMENT AGREEMENT BY THE BOARD OF
15 TRUSTEES AND THE LOCAL PLANNING AUTHORITY, THE COMMISSIONER SHALL CLASSIFY
16 THE ADDITIONAL TRUST LAND AS SUITABLE FOR CONSERVATION AND SHALL DOCUMENT THE
17 CHARACTERISTICS THAT LED TO THE DESIGNATION OF THE LAND AS SUITABLE FOR
18 CONSERVATION.

19 37-331.03. Economic value of additional trust land designated
20 as suitable for conservation

21 A. THE VALUE OF LAND DESIGNATED AS SUITABLE FOR CONSERVATION PURSUANT
22 TO SECTION 37-331.02, IS THE DIFFERENCE, IF ANY, BETWEEN THE FOLLOWING:

23 1. THE FAIR MARKET VALUE OF THE TRUST LAND THAT IS THE SUBJECT OF THE
24 AGREEMENT ASSUMING THE LAND WILL BE DISPOSED FOR AND USED ACCORDING TO A
25 CONCEPTUAL PLAN THAT COMPLIES WITH THE REQUIREMENTS OF SECTION 37-331.01.

26 2. THE FAIR MARKET VALUE OF THE TRUST LAND THAT IS THE SUBJECT OF THE
27 AGREEMENT ASSUMING THE LAND IS DISPOSED FOR AND USED ACCORDING TO A
28 CONCEPTUAL PLAN THAT DESIGNATES THE ADDITIONAL TRUST LAND REQUESTED BY THE
29 CITY, TOWN OR COUNTY PURSUANT TO SECTION 37-331.02 AS SUITABLE FOR
30 CONSERVATION.

31 B. THE ECONOMIC VALUE OF ADDITIONAL TRUST LAND DESIGNATED AS SUITABLE
32 FOR CONSERVATION AS DETERMINED UNDER SUBSECTION A OF THIS SECTION MAY BE
33 PROVIDED BY MEANS OF ONE OR ANY COMBINATION OF THE FOLLOWING:

34 1. THE PAYMENT OF MONETARY CONSIDERATION, IN CASH OR OVER A TERM OF
35 NOT MORE THAN TWENTY-FIVE YEARS, IF THERE IS AMPLE SECURITY FOR MONETARY
36 CONSIDERATION THAT IS DEFERRED.

37 2. NONMONETARY FORMS OF CONSIDERATION THAT HAVE AN ASCERTAINABLE VALUE
38 AND THAT MAY INCLUDE:

39 (a) INCREASES IN VALUE, IF ANY, RESULTING FROM AN INCREASE IN THE
40 OTHERWISE APPLICABLE INTENSITY AND DENSITY OF LAND USES ON TRUST LAND THAT IS
41 THE SUBJECT OF THE AGREEMENT AND THAT IS CLASSIFIED AS SUITABLE FOR
42 DEVELOPMENT.

43 (b) SUSPENDING, REDUCING OR PROVIDING CREDITS AGAINST DEVELOPMENT FEES
44 OR OTHER FEES OR REIMBURSING EXCESS CREDITS.

1 (c) INFRASTRUCTURE THAT PROVIDES A SPECIFIC BENEFIT TO TRUST LAND THAT
2 IS THE SUBJECT OF THE AGREEMENT AND THAT IS CLASSIFIED AS SUITABLE FOR
3 DEVELOPMENT.

4 (d) LAND.

5 (e) THE TRANSFER OF DEVELOPMENT RIGHTS TO NONCONTIGUOUS TRUST LAND
6 DESIGNATED AS SUITABLE FOR DEVELOPMENT IF THE VALUE OF THE TRANSFERRED
7 DEVELOPMENT RIGHTS IS RECOGNIZED BY THE APPRAISAL.

8 (f) DEMONSTRATION BY THE LOCAL PLANNING AUTHORITY THAT IS A PARTY TO
9 THE AGREEMENT THAT THE CITY, TOWN OR COUNTY HAS PREVIOUSLY PROVIDED VALUE
10 PURSUANT TO ANY FACTOR OR TECHNIQUE PERMITTED BY THIS SUBSECTION.

11 C. IF THE LOCAL PLANNING AUTHORITY AND THE COMMISSIONER CANNOT AGREE
12 ON A DETERMINATION OF VALUE PURSUANT TO THIS SECTION, THE VALUE SHALL BE
13 DETERMINED BY A THIRD-PARTY APPRAISAL.

14 37-331.04. Mediation and arbitration

15 A. IF AN ISSUE IN DISPUTE IS SUBMITTED TO MEDIATION OR ARBITRATION
16 PURSUANT TO SECTION 9-461.14, SUBSECTION A, PARAGRAPH 3, SUBDIVISION (b),
17 SECTION 11-821.04, SUBSECTION A, PARAGRAPH 3, SUBDIVISION (b) OR SECTION
18 37-331.01, SUBSECTION F, THE PARTY INITIATING THE MEDIATION OR ARBITRATION
19 SHALL SO NOTIFY THE OTHER PARTY, BY CERTIFIED MAIL, AND THE PARTIES SHALL
20 RESOLVE THE DISPUTE AS PROVIDED BY THIS SECTION.

21 B. A MEDIATION OR ARBITRATION PROCEEDING PURSUANT TO THIS SECTION
22 SHALL BE CONDUCTED ACCORDING TO THE RULES OF COMMERCIAL ARBITRATION OF THE
23 AMERICAN ARBITRATION ASSOCIATION, EXCEPT AS OTHERWISE PROVIDED IN THIS
24 SECTION.

25 C. THE COMMISSIONER AND THE LOCAL PLANNING AUTHORITY SHALL SELECT A
26 PERSON TO ACT AS MEDIATOR OR ARBITRATOR, AS APPLICABLE. IF THE PARTIES FAIL
27 TO AGREE ON A MEDIATOR OR ARBITRATOR, THEY MAY EACH APPOINT ONE PERSON TO
28 SELECT A THIRD PERSON TO ACT AS MEDIATOR OR ARBITRATOR.

29 D. IF THE DISPUTE IS SUBMITTED TO ARBITRATION PURSUANT TO THIS
30 SECTION:

31 1. THE ARBITRATION SHALL BE CONDUCTED PROMPTLY AND CONCLUDED NO LATER
32 THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE OF THE NOTICE PURSUANT TO
33 SUBSECTION A OF THIS SECTION UNLESS THE ARBITRATOR FOR GOOD CAUSE SHOWN
34 DELAYS THE HEARING.

35 2. EACH PARTY TO THE ARBITRATION SHALL SUBMIT A STATEMENT TO THE
36 ARBITRATOR AND TO THE OTHER PARTY SETTING FORTH A PROPOSED RESOLUTION OF THE
37 DISPUTE.

38 3. THE ARBITRATOR SHALL ALLOW THE PARTIES TO CONDUCT DISCOVERY
39 ACCORDING TO THE ARIZONA RULES OF CIVIL PROCEDURE AND TO SUBMIT EVIDENCE,
40 WITH THE PRIVILEGE OF CROSS-EXAMINATION, EXCEPT THAT THE APPLICABLE DISCOVERY
41 AND OTHER TIME PERIODS SHALL BE ADJUSTED, AS DETERMINED BY THE ARBITRATOR, TO
42 PERMIT THE PROMPT CONCLUSION OF THE PROCEEDING AS CONTEMPLATED BY THIS
43 SECTION.

4. AFTER COMPLETING DISCOVERY AND A HEARING, EACH PARTY SHALL SUBMIT A STATEMENT TO THE ARBITRATOR AND TO THE OTHER PARTY SETTING FORTH THE PARTY'S FINAL PROPOSED RESOLUTION OF THE DISPUTE.

5. AFTER HEARING THE MERITS, THE ARBITRATOR SHALL SELECT, WITHOUT MODIFICATION, THE RESOLUTION OFFERED BY ONE OF THE PARTIES AS THE ARBITRATOR'S DECISION. THE ARBITRATOR SHALL SELECT THE RESOLUTION THAT RESULTS IN THE TRUST LAND BEING TREATED IN A MANNER THAT IS NOT DISCRIMINATORY AS COMPARED TO THE TREATMENT OF PRIVATELY OWNED LANDS LOCATED IN THE COUNTY, CITY OR TOWN. THE ARBITRATOR SHALL NOTIFY THE COMMISSIONER AND THE GOVERNING BODY OF THE COUNTY, CITY OR TOWN OF THE ARBITRATOR'S DECISION BY CERTIFIED MAIL. THE ARBITRATOR'S RULING IS FINAL AND IS NOT SUBJECT TO ADMINISTRATIVE OR JUDICIAL REVIEW.

6. THE BOARD OF TRUSTEES SHALL TAKE ALL NECESSARY ACTION TO APPROVE AND THE COMMISSIONER SHALL INCORPORATE THE ARBITRATOR'S DECISION INTO THE FINAL CONCEPTUAL PLAN FOR THE TRUST LAND AND SHALL RECLASSIFY ALL TRUST LAND WITHIN THE CONCEPTUAL PLAN AREA PURSUANT TO SECTION 37-331.01. THE LOCAL PLANNING AUTHORITY SHALL TAKE ACTION PURSUANT TO SECTION 9-461.06 OR 11-821 TO INTEGRATE THE FINAL CONCEPTUAL PLAN INTO THE GENERAL OR COMPREHENSIVE PLAN PURSUANT TO SECTION 37-331.01, SUBSECTION E.

37-331.05. Five year trust land disposition plans

A. THE COMMISSIONER SHALL PREPARE A FIVE YEAR DISPOSITION PLAN THAT ESTABLISHES THE ANTICIPATED PRIORITY FOR DISPOSITION OF IDENTIFIED TRUST LAND WITHIN THE TIME PERIOD OF THE PLAN. BEFORE LISTING TRUST LAND ON THE PLAN, THE COMMISSIONER SHALL CONSIDER FACTORS RELEVANT TO THE TIMELINESS OF DISPOSITION, INCLUDING MARKET DEMAND, THE AVAILABILITY OF WATER, TRANSPORTATION AND OTHER INFRASTRUCTURE, AND WHETHER THE DISPOSITION WILL PROMOTE URBAN SPRAWL OR LEAPFROG DEVELOPMENT. THE COMMISSIONER SHALL REVIEW, AMEND AND UPDATE EACH PLAN ANNUALLY, OR MORE OFTEN, AS MAY BE NECESSARY.

B. THE FIVE YEAR DISPOSITION PLAN, ANNUAL UPDATES AND ANY AMENDMENTS TO THE PLAN ARE SUBJECT TO THE APPROVAL OF THE BOARD OF TRUSTEES.

C. THE COMMISSIONER SHALL PROVIDE NOTICE OF THE PROPOSED PLAN, ANNUAL UPDATES AND ANY AMENDMENT TO THE PLAN TO ANY LOCAL PLANNING AUTHORITY IN WHICH THE TRUST LAND INCLUDED IN THE PLAN IS LOCATED AT LEAST SIXTY DAYS BEFORE THE PLAN IS CONSIDERED FOR APPROVAL BY THE BOARD OF TRUSTEES.

D. THE COMMISSIONER IS NOT OBLIGATED TO CONSIDER AN APPLICATION FOR THE SALE OR COMMERCIAL LEASE OF ANY TRUST LAND THAT IS NOT LISTED ON THE FIVE YEAR DISPOSITION PLAN.

37-331.06. Development plans

A. THE COMMISSIONER MAY PREPARE DEVELOPMENT PLANS FOR TRUST LAND THAT IS INCLUDED IN A CONCEPTUAL PLAN THAT IS INTEGRATED WITH A GENERAL PLAN OR COMPREHENSIVE PLAN AND APPROVED BY THE BOARD OF TRUSTEES PURSUANT TO SECTION 37-331.01. THE DEVELOPMENT PLAN MAY CONTAIN PROVISIONS AND STUDIES THAT THE COMMISSIONER DETERMINES TO BE NECESSARY.

B. THE COMMISSIONER MAY:

1 1. PAY FOR THE PREPARATION OF DEVELOPMENT PLANS, INCLUDING CULTURAL
2 RESOURCE INVESTIGATIONS, LEGAL LAND SURVEYS, ENVIRONMENTAL ASSESSMENTS AND
3 ECONOMIC CONSULTING, ENGINEERING, PLANNING, LEGAL OR GEOLOGICAL STUDIES, BY
4 DEPARTMENT STAFF OR BY CONSULTANTS.

5 2. PROVIDE FOR THE REIMBURSEMENT OF COSTS INCURRED TO PREPARE THE
6 DEVELOPMENT PLAN BY THE SUCCESSFUL BIDDER AT THE AUCTION OF THE SALE OR LEASE
7 OF ALL OR PART OF THE TRUST LAND THAT IS THE SUBJECT OF THE DEVELOPMENT
8 PLAN. PLANNING COSTS THAT WILL BE REIMBURSED BY A SUCCESSFUL BIDDER MAY BE
9 ADVANCED OR INCURRED BY THE DEPARTMENT, ANY CONSULTANT OR AN APPLICANT IN
10 FURTHERANCE OF THE PLANNING ACTIVITIES UNDERTAKEN TO PREPARE THE DEVELOPMENT
11 PLAN. MONIES THAT ARE ADVANCED TO THE DEPARTMENT PURSUANT TO THIS SUBSECTION
12 SHALL BE DEPOSITED AND ADMINISTERED BY THE COMMISSIONER AS PROVIDED IN
13 SECTION 37-108, SUBSECTION B.

14 C. IF IMPLEMENTATION OF THE DEVELOPMENT PLAN WILL REQUIRE REZONING:

15 1. THE COMMISSIONER MAY SUBMIT A REQUEST TO THE LOCAL PLANNING
16 AUTHORITY FOR A GENERAL PLAN AMENDMENT OR COMPREHENSIVE PLAN AMENDMENT
17 PURSUANT TO SECTION 9-461.06 OR 11-824, IF NECESSARY, AND A REQUEST FOR
18 REZONING CONSISTENT WITH THE DEVELOPMENT PLAN WITH RESPECT TO A REZONING
19 REQUEST. THE LOCAL PLANNING AUTHORITY SHALL TREAT THE TRUST LAND THAT IS THE
20 SUBJECT OF THE REQUEST IN A MANNER THAT IS NOT DISCRIMINATORY AS COMPARED TO
21 THE TREATMENT OF PRIVATELY OWNED LANDS LOCATED IN THE COUNTY, CITY OR TOWN
22 AND, IF THE DEVELOPMENT PLAN IS CONSISTENT WITH THE GENERAL PLAN OR
23 COMPREHENSIVE PLAN, SHALL TAKE ALL ACTION REQUIRED TO APPROVE OR DENY THE
24 REZONING REQUEST WITHIN SIX MONTHS AFTER THE REQUEST IS SUBMITTED.

25 2. IF THE COMMISSIONER DETERMINES THAT A DECISION OF THE LOCAL
26 PLANNING AUTHORITY DENYING A REQUEST FOR REZONING TREATS TRUST LAND IN A
27 MANNER THAT IS DISCRIMINATORY AS COMPARED TO THE TREATMENT OF PRIVATELY OWNED
28 LANDS LOCATED IN THE COUNTY, CITY OR TOWN:

29 (a) THE COMMISSIONER, WITH THE APPROVAL BY THE BOARD OF TRUSTEES, MAY
30 BRING A SPECIAL ACTION IN SUPERIOR COURT.

31 (b) THE COURT SHALL DETERMINE WHETHER THE LOCAL PLANNING AUTHORITY HAS
32 TREATED THE REZONING REQUEST IN A MANNER THAT IS DISCRIMINATORY AS COMPARED
33 TO THE TREATMENT OF PRIVATELY OWNED LANDS LOCATED IN THE COUNTY, CITY OR
34 TOWN.

35 (c) IF THE COURT DETERMINES THAT THE LOCAL PLANNING AUTHORITY HAS
36 TREATED THE REZONING REQUEST IN A MANNER THAT IS DISCRIMINATORY AS COMPARED
37 TO THE TREATMENT OF PRIVATELY OWNED LANDS LOCATED IN THE COUNTY, CITY OR
38 TOWN, THE COURT SHALL ORDER THE CITY, TOWN OR COUNTY TO TAKE ALL NECESSARY
39 LEGISLATIVE ACTION PURSUANT TO SECTION 9-461.06 OR 11-821 TO APPROPRIATELY
40 REZONE THE TRUST LAND.

41 37-331.07. Off-site improvement of trust land; assessments as
42 lien on purchaser or lessee's interest;
43 enforcement; liens not liabilities of state

44 A. THE GOVERNING BODY OF A COUNTY, CITY, TOWN OR COUNTY IMPROVEMENT
45 DISTRICT MAY SUBMIT TO THE COMMISSIONER FOR APPROVAL AN IMPROVEMENT PLAN TO

BE CARRIED OUT BY THE COUNTY, CITY, TOWN OR DISTRICT FOR ALL OR PART OF THE TRUST LAND WITHIN ITS JURISDICTION. THE PLAN SHALL BE SUBMITTED BEFORE ANY ASSESSMENT HAS BEEN LEVIED FOR CONSTRUCTION OF OFF-SITE IMPROVEMENTS THAT WILL BE LOCATED ON OR ADJACENT TO AND BENEFIT THE TRUST LAND. THE PLAN MAY PROVIDE FOR IMPOSING SPECIAL ASSESSMENTS ONLY AGAINST THE LEASEHOLD INTEREST OF THE LESSEE OR THE INTEREST IN THE CERTIFICATE OF PURCHASE OF THE PURCHASER OF TRUST LAND THAT WILL BE SUBJECT TO SALE OR LONG-TERM LEASE PURSUANT TO SECTION 37-281.02 OR OTHER LAW. THE PLAN MUST INCLUDE THE FOLLOWING:

1. A DESCRIPTION OF THE PROPOSED WORK.
2. AN ESTIMATE OF THE COST OF THE WORK AND THE COSTS TO BE IMPOSED AGAINST THE LEASEHOLD INTEREST OR THE INTEREST IN THE CERTIFICATE OF PURCHASE.
3. A MAP AND LEGAL DESCRIPTION OF THE AREA SHOWING THE TRUST LAND BENEFITED BY THE PROPOSED WORK.
4. A METHOD OF CHARGING THE COST TO THE LESSEE OR CERTIFICATE OF PURCHASE HOLDER.
5. A SCHEDULE OR ALTERNATIVE SCHEDULES FOR PAYMENT OF THE COSTS SO CHARGED BY FUTURE HOLDERS OF CERTIFICATES OF PURCHASE OR LEASE ON THE TRUST LAND, INCLUDING THE MANNER IN WHICH CHARGES UNDER THE SCHEDULES WILL BE HELD IN ABEYANCE FOR TRUST LAND NOT SUBJECT TO A CERTIFICATE OF PURCHASE OR LEASE. THE SCHEDULE FOR PAYMENTS SHALL STATE THE MAXIMUM ASSESSMENT AMOUNT, EXCLUDING INTEREST, WHICH MAY BE IMPOSED AGAINST THE LEASEHOLD INTEREST OR THE INTEREST IN THE CERTIFICATE OF PURCHASE.
6. THE MAXIMUM INTEREST RATE TO BE ASSESSED ON THE UNPAID CHARGES, INCLUDING THE MAXIMUM RATE AT WHICH INTEREST, IF ANY, WILL ACCRUE FOR TRUST LAND BENEFITED BY BUT NOT SUBJECT TO A CERTIFICATE OF PURCHASE OR LEASE.
7. INFORMATION SHOWING THAT THE TRUST LAND INVOLVED IN THE PLAN WILL BE BENEFITED IN AN AMOUNT EQUAL TO OR GREATER THAN THE PROPOSED MAXIMUM ASSESSMENT AMOUNT.
8. OTHER TERMS THAT THE GOVERNING BODY CONSIDERS TO BE NECESSARY OR APPROPRIATE.

B. NO IMPROVEMENT PLAN UNDER THIS SECTION MAY INCLUDE TRUST LAND THAT IS ALREADY SUBJECT TO A LONG-TERM LEASE OR CERTIFICATE OF PURCHASE NOR MAY ANY ASSESSMENT BE IMPOSED AGAINST THE LEASEHOLD INTEREST OR THE INTEREST IN THE CERTIFICATE OF PURCHASE UNLESS THE LESSEE OR HOLDER AGREES TO INCLUSION AND ASSESSMENT.

C. IF REQUESTED BY THE GOVERNING BODY OF THE COUNTY, CITY, TOWN OR COUNTY IMPROVEMENT DISTRICT, THE COMMISSIONER SHALL COOPERATE IN PREPARING AND REVISING THE IMPROVEMENT PLAN. THE COMMISSIONER MAY APPROVE THE IMPROVEMENT PLAN IF IT COMPLIES WITH THE DEPARTMENT'S LAND USE PLANS FOR THE AFFECTED TRUST LAND.

D. IF THE COMMISSIONER APPROVES THE IMPROVEMENT PLAN OR ANY MODIFICATION OF THE PLAN, THE COMMISSIONER SHALL ENTER AN ORDER OF APPROVAL IN THE OFFICIAL RECORDS AND SHALL CAUSE A COPY TO BE SERVED ON THE GOVERNING BODY OF THE COUNTY, CITY, TOWN OR COUNTY IMPROVEMENT DISTRICT REQUESTING

1 APPROVAL, RECORDED WITH THE COUNTY RECORDER OF THE COUNTY IN WHICH THE LAND
2 IS LOCATED AND FILED WITH THE SECRETARY OF STATE. FEES SHALL NOT BE CHARGED
3 FOR RECORDING OR FILING.

4 E. OFFICIALLY CERTIFIED DESCRIPTIONS OF ALL TRUST LAND INCLUDED WITHIN
5 THE BOUNDARIES OF A CITY SPECIAL ASSESSMENT OR COUNTY IMPROVEMENT DISTRICT
6 SUBJECT TO AN APPROVED IMPROVEMENT PLAN, WITH THE AMOUNTS OF ASSESSMENTS AND
7 CHARGES OF EVERY CHARACTER MADE AGAINST THE LEASEHOLD INTEREST OF THE LESSEE
8 OR THE INTEREST IN THE CERTIFICATE OF PURCHASE OF THE PURCHASER, SHALL BE
9 FURNISHED TO THE DEPARTMENT AS SOON AS THE ASSESSMENTS OR CHARGES ARE
10 LEVIED. AN ASSURANCE BY THE LESSEE OR PURCHASER TO MAKE TIMELY PAYMENT OF
11 ALL ASSESSMENT CHARGES AND AN ACKNOWLEDGEMENT OF THE ASSESSMENT SHALL BE
12 INSERTED IN ANY CERTIFICATE OF PURCHASE OR LEASE FOR THE LANDS. IF
13 ASSESSMENTS HAVE BEEN LEVIED AGAINST TRUST LAND BEFORE PURCHASE OR LEASE, THE
14 COMMISSIONER SHALL REQUIRE THAT ALL UNPAID INSTALLMENTS ON ASSESSMENTS BE
15 PAID TO THE CITY OR TOWN OR COUNTY IMPROVEMENT DISTRICT BEFORE EXECUTING A
16 LEASE OR ANY INSTRUMENT OF SALE. THE SUBSEQUENT PROCEEDINGS LEADING TO THE
17 RECORDING OF AN ASSESSMENT BY THE COUNTY, CITY, TOWN OR COUNTY IMPROVEMENT
18 DISTRICT MAY TREAT THE LESSEE'S OR PURCHASER'S INTEREST IN STATE LAND AS LAND
19 SUBJECT TO AN ASSESSMENT NOTWITHSTANDING SECTION 48-582 OR 48-920.

20 F. IF ANY INSTALLMENT OF ANY ASSESSMENT OR CHARGE AGAINST A LEASEHOLD
21 INTEREST OR THE INTEREST IN A CERTIFICATE OF PURCHASE OF TRUST LAND SUBJECT
22 TO AN IMPROVEMENT PLAN IS NOT PAID WHEN DUE, THE SUPERINTENDENT OF STREETS OF
23 THE CITY OR TOWN OR COUNTY IMPROVEMENT DISTRICT, AFTER AT LEAST THIRTY DAYS'
24 NOTICE TO THE NAMED PURCHASER OR LESSEE, MAY NOTIFY THE DEPARTMENT OF THE
25 NONPAYMENT. NONPAYMENT IS A DEFAULT UNDER THE CERTIFICATE OF PURCHASE OR
26 LEASE UNDER WHICH THE LANDS ARE HELD. THE INTEREST OF A PURCHASER OR LESSEE
27 OF TRUST LAND IN A MUNICIPAL OR COUNTY ASSESSMENT DISTRICT IS SUBJECT TO THE
28 ENFORCEMENT AND SALE, REDEMPTION AND FORFEITURE PROVISIONS OF TITLE 48,
29 CHAPTER 4, ARTICLE 2 OR TITLE 48, CHAPTER 6, ARTICLE 1. NONPAYMENT OF
30 CHARGES DUE PURSUANT TO AN IMPROVEMENT PLAN SUBJECTS THE CERTIFICATE OR LEASE
31 TO DEFAULT PROCEEDINGS. IF THE DELINQUENT AMOUNTS AGAINST THE LANDS ARE NOT
32 PAID WITHIN THIRTY DAYS AFTER THE DATE THE NOTICE IS RECEIVED BY THE
33 COMMISSIONER, THE COMMISSIONER SHALL ACT TO CANCEL THE CERTIFICATE OF
34 PURCHASE OR LEASE.

35 G. ALL CHARGES AND ASSESSMENTS LEGALLY IMPOSED AGAINST THE LEASEHOLD
36 INTEREST OR THE INTEREST IN THE CERTIFICATE OF PURCHASE OF TRUST LAND SUBJECT
37 TO AN IMPROVEMENT PLAN APPROVED BY THE COMMISSIONER THAT IS NOT HELD UNDER A
38 CERTIFICATE OF PURCHASE OR LEASE BY THE ASSESSMENT DISTRICT OR PURSUANT TO AN
39 IMPROVEMENT PLAN ARE A CONTINUING CHARGE, AND THE LAND SHALL NOT BE LEASED OR
40 SOLD UNTIL THE PURCHASER OR LESSEE OF THE LAND PRESENTS TO THE DEPARTMENT A
41 CERTIFICATE FROM THE SUPERINTENDENT OF STREETS OF THE DISTRICT IN WHICH THE
42 LAND IS LOCATED SHOWING THAT ALL ASSESSMENTS DUE HAVE BEEN PAID.

43 H. THIS SECTION DOES NOT CREATE A LIEN AGAINST THE INTEREST OF THIS
44 STATE IN ANY TRUST LAND OR AN OBLIGATION AGAINST THIS STATE TO PAY CHARGES OR
45 ASSESSMENTS IMPOSED AGAINST TRUST LAND PURSUANT TO AN IMPROVEMENT PLAN. NO

ACTION OF ANY NATURE MAY BE BROUGHT TO FORFEIT, TERMINATE OR FORECLOSE THIS STATE'S TITLE OR INTEREST IN TRUST LAND FOR FAILURE OF ANY LESSEE OR PURCHASER TO PAY ANY ASSESSMENT.

37-331.08. Agreements to fund, install and reimburse costs of infrastructure on trust land

A. THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH ANY PUBLIC OR PRIVATE PARTY TO PERMIT THE CONSTRUCTION, OPERATION AND MAINTENANCE OF INFRASTRUCTURE, INCLUDING A COMMUNITY IDENTITY PACKAGE, TO BENEFIT TRUST LAND. THE INFRASTRUCTURE MAY BE LOCATED ON OR ADJACENT TO THE TRUST LAND. THE AGREEMENT:

1. MAY PROVIDE FOR REIMBURSEMENT BY SUBSEQUENT PURCHASERS OR LESSEES OF ACTUAL INFRASTRUCTURE RELATED LAND ACQUISITION AND CONSTRUCTION COSTS PLUS A REASONABLE RATE OF INTEREST AS DETERMINED BY THE COMMISSIONER.

2. SHALL CONTAIN LIMITATIONS THAT THE COMMISSIONER CONSIDERS NECESSARY TO PROTECT THE MARKETABILITY OF THE TRUST LAND.

3. SHALL IDENTIFY THE TYPE AND QUALITY OF INFRASTRUCTURE, THE SCHEDULE FOR INSTALLATION, THE METHOD OF COMPUTING THE REIMBURSABLE COSTS AND THE METHODS FOR REPAYMENT.

4. SHALL CONTAIN A MAP AND LEGAL DESCRIPTION OF:

- (a) THE LOCATION WHERE THE INFRASTRUCTURE WILL BE INSTALLED.
- (b) THE TRUST LAND BENEFITED BY THE PROPOSED WORK.

5. SHALL INCLUDE REQUIREMENTS ADDRESSING:

- (a) MAINTENANCE AND REPAIR OF THE INFRASTRUCTURE.
- (b) LIABILITY FOR DAMAGE OR ACCIDENTS RESULTING FROM THE DESIGN, CONSTRUCTION, MAINTENANCE OR REPAIR OF THE INFRASTRUCTURE.

6. SHALL STATE THE PROCEDURE FOR AMENDING THE AGREEMENT.

7. SHALL INCLUDE RIGHTS AND REMEDIES FOR DEFAULT UNDER THE AGREEMENT, INCLUDING THE RIGHT TO CURE.

B. A PARTY TO AN AGREEMENT UNDER THIS SECTION MAY NOT DELEGATE OBLIGATIONS UNDER THE AGREEMENT WITHOUT WRITTEN APPROVAL OF THE COMMISSIONER. THE COMMISSIONER MAY REQUIRE PERFORMANCE AND PAYMENT BONDS OR OTHER SUFFICIENT SECURITY AS A CONDITION FOR APPROVAL.

C. AN AGREEMENT UNDER THIS SECTION DOES NOT GIVE RISE TO ANY PREFERRED RIGHTS OR OTHER RIGHTS GENERALLY ACQUIRED BY A LESSEE OF STATE LANDS UNLESS SPECIFICALLY STATED IN THE AGREEMENT. NOTWITHSTANDING SECTION 37-322.01 OR 37-322.02 OR ANY OTHER STATUTE, THE RIGHT TO REIMBURSEMENT FOR INFRASTRUCTURE ON URBAN LANDS IS LIMITED PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF THIS SECTION. THE GENERAL PROVISIONS FOR DEFAULT UNDER STATE LAND LEASES OR CERTIFICATES OF PURCHASE DO NOT APPLY TO AGREEMENTS UNDER THIS SECTION.

D. AN AGREEMENT UNDER THIS SECTION IS EXEMPT FROM THE PROCUREMENT REQUIREMENTS OF TITLE 41, CHAPTER 23 AND THE LOCAL PLANNING AUTHORITY.

ARTICLE 5.2. CONSERVATION RESERVE LANDS

37-336. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1 1. "CONSERVATION RESERVE LANDS" MEANS THOSE LANDS COLLECTIVELY
2 DESIGNATED AS EDUCATIONAL RESERVE LANDS, PROVISIONAL RESERVE LANDS OR
3 PERMANENT RESERVE LANDS PURSUANT TO ARTICLE X, SECTION 1.1, CONSTITUTION OF
4 ARIZONA.

5 2. "EDUCATIONAL RESERVE LANDS", "PROVISIONAL RESERVE LANDS" AND
6 "PERMANENT RESERVE LANDS" MEANS THE LANDS SO DESIGNATED PURSUANT TO ARTICLE
7 X, SECTION 1.1, CONSTITUTION OF ARIZONA.

8 3. "NONURBAN" MEANS OUTSIDE THE LIMITS DEFINED AS URBAN PURSUANT TO
9 SECTION 37-101.

10 4. "QUALIFIED PARTY" MEANS:

11 (a) AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES OR OF THIS
12 STATE.

13 (b) A CITY, TOWN, COUNTY OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

14 (c) A NONPROFIT LAND TRUST OR OTHER NONPROFIT ORGANIZATION ENGAGED IN
15 LAND CONSERVATION ACTIVITIES THAT NOTIFIES THE DEPARTMENT OF ITS INTEREST IN
16 TAKING TITLE TO LANDS UNDER THIS SECTION, EXCEPT THAT FOR THE PURPOSES OF
17 PROVISIONAL RESERVE LAND THAT IS CONTIGUOUS WITH OR ADJACENT TO LANDS
18 CLASSIFIED AS SUITABLE FOR DEVELOPMENT, A PARTY DESCRIBED IN THIS SUBDIVISION
19 IS QUALIFIED ONLY IF NO OTHER QUALIFIED PARTY HAS AGREED TO PROVIDE VALUE AND
20 ACCEPT TITLE TO THE LANDS.

21 37-336.01. Conveyance of title to conservation reserve lands

22 A. THE COMMISSIONER SHALL OFFER AND CONVEY TITLE TO OR THE VERTICAL
23 DEVELOPMENT RIGHT OR OTHER SIMILAR INTERESTS IN ANY PARCEL OF CONSERVATION
24 RESERVE LANDS AS PROVIDED BY ARTICLE X, SECTION 1.1, CONSTITUTION OF ARIZONA
25 AND THIS SECTION.

26 B. BEFORE ANY CONVEYANCE OF PERMANENT RESERVE LANDS, THE COMMISSIONER
27 MUST DETERMINE THAT THE CONVEYANCE IS IN THE BEST INTEREST OF THE TRUST.

28 C. DURING THE RESERVE PERIOD ESTABLISHED PURSUANT TO SECTION 37-336.02
29 FOR A PARCEL OF PROVISIONAL RESERVE LAND, A QUALIFIED PARTY MAY ACQUIRE THE
30 PROVISIONAL RESERVE LANDS OR MAY ACQUIRE THE VERTICAL DEVELOPMENT RIGHTS OR
31 OTHER SIMILAR INTERESTS IN THE PROVISIONAL RESERVE LANDS, WITHOUT AUCTION, AS
32 FOLLOWS:

33 1. IF PROVISIONAL RESERVE LANDS ARE THE SUBJECT OF A CONCEPTUAL PLAN
34 THAT COMPLIES WITH THE REQUIREMENTS OF SECTION 37-331.01, THE LANDS SHALL BE
35 TREATED AS IF THEY WERE CLASSIFIED AS SUITABLE FOR CONSERVATION PURSUANT TO
36 SECTION 37-331.01 OR 37-331.02, AS APPLICABLE, AND SHALL BE DISPOSED OF IN
37 THE MANNER PROVIDED BY SECTION 37-236.01.

38 2. IF PROVISIONAL RESERVE LANDS ARE NOT THE SUBJECT OF A CONCEPTUAL
39 PLAN, THE ECONOMIC VALUE OF THE LANDS OR INTEREST IN THE LANDS MUST BE
40 PROVIDED. THE ECONOMIC VALUE:

41 (a) IS THE FAIR MARKET VALUE BASED ON TWO INDEPENDENT APPRAISALS THAT
42 ASSUME THE LANDS ARE NOT OTHERWISE RESTRICTED.

43 (b) SHALL BE PROVIDED PURSUANT TO SECTION 37-331.03, SUBSECTION B,
44 PARAGRAPH 1.

1 D. IF MORE THAN ONE PARTY APPLIES TO ACQUIRE THE SAME PARCEL OF
2 CONSERVATION RESERVE LANDS, THE COMMISSIONER SHALL DETERMINE THE PARTY TO
3 WHOM TITLE WILL BE CONVEYED.

4 E. THE TERMS OF ANY CONVEYANCE OF CONSERVATION RESERVE LANDS SHALL:

5 1. PERMANENTLY RESTRICT THE LAND AGAINST VERTICAL DEVELOPMENT.

6 2. REQUIRE THAT THE LANDS BE MANAGED IN A MANNER CONSISTENT WITH THE
7 CONSERVATION OF THE LAND.

8 3. PERMANENTLY ESTABLISH REASONABLE PUBLIC ACCESS TO THE LANDS.

9 4. IN THE CASE OF EDUCATIONAL RESERVE LANDS, PROVIDE AN EXCEPTION TO
10 THE REQUIREMENT OF THIS PARAGRAPH ON UP TO FIFTY ACRES OF ALL EDUCATIONAL
11 RESERVE LANDS CONVEYED PURSUANT TO THIS TITLE FOR THE CONSTRUCTION OF
12 BUILDINGS AND RELATED INFRASTRUCTURE TO SUPPORT UNIVERSITY PROGRAMS IF THE
13 LOCATIONS OF SUCH BUILDINGS AND INFRASTRUCTURE ARE IDENTIFIED BY THE BOARD OF
14 REGENTS AND ARE SPECIFIED IN THE TERMS OF CONVEYANCE.

15 37-336.02. Establishment of reserve periods for provisional
16 reserve lands; removal of lands from provisional
17 reserve

18 A. THE RESERVE PERIOD FOR EACH PARCEL OF PROVISIONAL RESERVE LAND
19 BEGINS ON THE EFFECTIVE DATE OF THIS SECTION AND CONTINUES UNTIL THE
20 EXPIRATION DATE FOR THE PARCEL. THE COMMISSIONER SHALL ESTABLISH AND MAY
21 EXTEND EXPIRATION DATES FOR EACH PARCEL IN ORDER TO ESTABLISH A REASONABLE
22 DISPOSITION SCHEDULE AS FOLLOWS:

23 1. FOR PROVISIONAL RESERVE LANDS THAT ARE URBAN LANDS, THE
24 COMMISSIONER SHALL ESTABLISH A SPECIFIC EXPIRATION DATE FOR THE RESERVE
25 PERIOD, WHICH MUST BE AT LEAST FIVE YEARS AFTER THE DATE THE COMMISSIONER
26 PROVIDES NOTICE PURSUANT TO SUBSECTION B OF THIS SECTION. THE EXPIRATION
27 DATE:

28 (a) SHALL BE ESTABLISHED NO LATER THAN THE DATE ON WHICH THE LANDS ARE
29 INCLUDED IN A FIVE YEAR DISPOSITION PLAN APPROVED BY THE BOARD OF TRUSTEES AS
30 PRESCRIBED IN SECTION 37-331.05.

31 (b) MAY OCCUR NO EARLIER THAN THE DATE OF THE RATIFICATION BY THE CITY
32 OR TOWN OF A GENERAL PLAN OR ADOPTION BY THE COUNTY OF A COMPREHENSIVE PLAN
33 THAT IS CONSISTENT WITH THE CONCEPTUAL PLAN FOR THE LAND AREA THAT INCLUDES
34 THE PARCEL OF PROVISIONAL RESERVE LANDS IN THE MANNER PRESCRIBED IN SECTION
35 37-331.01 OR, IF APPLICABLE, SECTION 37-331.02.

36 2. FOR NONURBAN PROVISIONAL RESERVE LANDS, THE COMMISSIONER SHALL
37 ESTABLISH A SPECIFIC EXPIRATION DATE FOR THE RESERVE PERIOD AFTER A
38 CONCEPTUAL PLAN FOR THE USE OF TRUST LANDS FOR COMMERCIAL PURPOSES THAT
39 INCLUDES THE PROVISIONAL RESERVE LANDS IS PREPARED AND INTEGRATED INTO THE
40 COUNTY'S COMPREHENSIVE PLAN PURSUANT TO SECTION 37-331.01. THE EXPIRATION
41 DATE MUST BE AT LEAST FIVE YEARS AFTER THE DATE THE COMMISSIONER PROVIDES
42 NOTICE PURSUANT TO SUBSECTION B OF THIS SECTION.

43 B. ON ESTABLISHING AN EXPIRATION DATE FOR THE RESERVE PERIOD FOR ANY
44 PARCEL OF PROVISIONAL RESERVE LANDS, THE COMMISSIONER SHALL PROVIDE NOTICE OF
45 THE EXPIRATION DATE AND THE AFFECTED PARCEL TO THE ARIZONA STATE PARKS BOARD,

1 THE ARIZONA GAME AND FISH COMMISSION, THE COUNTY, CITY OR TOWN IN WHICH THE
2 PARCEL IS LOCATED OR THAT IS LOCATED IN THE VICINITY OF THE PARCEL AND ANY
3 PERSON IN INTEREST OF RECORD WITH THE DEPARTMENT.

4 C. IF NO QUALIFIED PARTY ACCEPTS OR OFFERS TO ACQUIRE A PARCEL OF
5 PROVISIONAL RESERVE LANDS BEFORE THE EXPIRATION DATE OF THE RESERVE PERIOD,
6 THE COMMISSIONER MAY RECLASSIFY AND DISPOSE OF THE PARCEL FOR ANY PURPOSE.

7 37-336.03. Use and management of conservation reserve lands by
8 the commissioner

9 A. EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE AND CONSISTENT WITH
10 ARTICLE X, SECTION 1.1, CONSTITUTION OF ARIZONA, THE COMMISSIONER:

11 1. SHALL WITHHOLD CONSERVATION RESERVE LANDS FROM SALE, LEASE OR OTHER
12 DISPOSITION FOR VERTICAL DEVELOPMENT OR USE INCONSISTENT WITH THE
13 CONSERVATION OF THE LAND.

14 2. MAY LEASE, ISSUE PERMITS AND GRANT RIGHTS-OF-WAY AND MAY RENEW,
15 EXTEND OR REISSUE EXISTING LEASES, PERMITS AND RIGHTS-OF-WAY ON CONSERVATION
16 RESERVE LANDS FOR PURPOSES NOT INCONSISTENT WITH THE CONSERVATION OF THE
17 LAND.

18 B. THIS SECTION DOES NOT PRECLUDE THE CONTINUATION OF ANY LEASE,
19 RIGHT-OF-WAY OR OTHER USE OF CONSERVATION RESERVE LANDS THAT WAS IN EXISTENCE
20 AS OF NOVEMBER 2, 2006.

21 37-336.04. Access to adjacent lands

22 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE CONVEYANCE OF
23 TITLE TO OR INTERESTS IN CONSERVATION RESERVE LANDS SHALL:

24 1. RESERVE PERMANENT ACCESS TO OTHER STATE LANDS.

25 2. ESTABLISH REASONABLE ACCESS TO PRIVATE LANDS THAT ARE SO SITUATED
26 WITH RESPECT TO THE CONSERVATION RESERVE LANDS THAT A PRIVATE WAY OF
27 NECESSITY IS REQUIRED FOR THE PROPER USE AND ENJOYMENT OF THE PRIVATE LANDS
28 IF THE FAIR MARKET VALUE OF THE ACCESS IS PROVIDED TO THE TRUST BY THE
29 PRIVATE LANDOWNER.

30 37-336.05. Compensation on cancellation of existing lease:
31 exceptions

32 A. IF AN EXISTING LEASE IS CANCELED DUE TO A CONVEYANCE OF
33 CONSERVATION RESERVE LANDS AND THE PARTY TO WHOM THE LANDS ARE CONVEYED AND
34 THE EXISTING LESSEE CANNOT AGREE ON COMPENSATION, THE COMMISSIONER SHALL
35 DETERMINE THE AMOUNT OF REASONABLE COMPENSATION FOR DAMAGES SUSTAINED BY THE
36 EXISTING LESSEE AFTER CONSIDERING THE FOLLOWING FACTORS:

37 1. THE TIME REMAINING IN THE TERM OF THE LEASE AT THE TIME THAT THE
38 LEASE IS CANCELED.

39 2. THE ACTUAL USE OF THE LEASED LAND.

40 3. THE RENTALS PAID DURING THE TERM OF THE LEASE.

41 4. THE ACTUAL AMOUNT OF ECONOMIC DAMAGE TO THE PRODUCTION UNIT CAUSED
42 BY THE CANCELLATION. IN DETERMINING THE AMOUNT OF ECONOMIC DAMAGE TO THE
43 PRODUCTION UNIT, THE COMMISSIONER SHALL NOT LIMIT THE SCOPE OF REVIEW TO ONLY
44 THAT PORTION OF THE CONVEYED LANDS BUT SHALL TAKE INTO CONSIDERATION THE
45 IMPACT OF THE LOSS OF THE CONVEYED LANDS ON THE OVERALL PRODUCTION UNIT,

1 INCLUDING SITUATIONS IN WHICH OTHER LEASED OR PRIVATE LANDS ARE NECESSARY AND
2 HAVE BEEN LEASED BY THE EXISTING LESSEE FOR OPERATION AS A PRODUCTION UNIT.

3 5. OTHER FACTORS THAT THE COMMISSIONER OR THE EXISTING LESSEE
4 DETERMINES TO BE RELEVANT.

5 B. THE PARTY TO WHOM THE LANDS ARE CONVEYED SHALL MAKE PAYMENTS FOR
6 COMPENSATION AS ESTABLISHED UNDER THIS SECTION TO THE EXISTING LESSEE AT THE
7 TIME OF TRANSFER OF TITLE OR CANCELLATION OF THE LEASE OR IN INSTALLMENTS IF
8 THE EXISTING LESSEE AND QUALIFYING PARTY AGREE TO INSTALLMENT PAYMENTS.

9 Sec. 33. Section 37-461, Arizona Revised Statutes, is amended to read:
10 37-461. Grants of rights-of-way and sites for public uses

11 A. The department may grant rights-of-way for any purpose it deems
12 necessary, and sites for reservoirs, dams and power or irrigation plants, or
13 other purposes, on and over state lands, subject to terms and conditions the
14 department imposes. The department may ~~make~~ ADOPT rules respecting the
15 granting and maintenance of ~~such~~ THESE rights-of-way and sites.

16 B. The department may grant rights-of-way for ROADWAY, RAILWAY, TRAIL,
17 DRAINAGE, FLOOD CONTROL OR UTILITY PURPOSES WITHOUT A PUBLIC AUCTION.
18 ~~transportation purposes to federal agencies, state agencies or political~~
19 ~~subdivisions of this state for nonexclusive uses for a term exceeding ten~~
20 ~~years without a public auction. If a grant of a right-of-way or site to any~~
21 ~~other entity amounts to the disposition of or conveys a perpetual right to~~
22 ~~use the surface of the land, the department shall grant the right-of-way or~~
23 ~~site at public auction to the highest and best bidder.~~

24 ~~C. The department may grant rights-of-way to any person for~~
25 ~~nonexclusive uses for a term of not more than fifty years without a public~~
26 ~~auction.~~

27 C. AN APPLICATION FOR A RIGHT-OF-WAY SHALL BE MADE ON A FORM PROVIDED
28 BY THE DEPARTMENT AND MUST INCLUDE:

- 29 1. THE PURPOSE OF THE PROPOSED RIGHT-OF-WAY.
- 30 2. A LEGAL DESCRIPTION ACCEPTABLE TO THE DEPARTMENT.
- 31 3. A DESCRIPTION OF ANY IMPROVEMENTS THAT ALREADY EXIST IN THE
- 32 RIGHT-OF-WAY OR THAT WILL BE REMOVED OR REPLACED IN THE CONSTRUCTION OR USE
- 33 OF THE RIGHT-OF-WAY.

34 4. IF THE APPLICATION IS FOR A RIGHT-OF-WAY PURSUANT TO SUBSECTION D,
35 A DESCRIPTION OF THE BENEFIT TO TRUST LAND THAT WILL RESULT FROM THE GRANTING
36 OF THE RIGHT-OF-WAY.

37 D. WITH THE APPROVAL OF THE BOARD OF TRUSTEES, THE COMMISSIONER MAY
38 GRANT PUBLIC RIGHTS-OF-WAY FOR ROADWAY, TRAIL, DRAINAGE, FLOOD CONTROL OR
39 UTILITY PURPOSES FOR CONSIDERATION OTHER THAN, OR IN ADDITION TO, MONETARY
40 CONSIDERATION IF THE GRANT WILL BRING SPECIFIC BENEFIT TO TRUST LAND THAT IS
41 SEPARATE FROM ANY GENERAL BENEFITS THE EXISTENCE OF THE RIGHT-OF-WAY MIGHT
42 CREATE FOR OTHER LAND IN THE VICINITY OF THE TRUST LAND. SPECIFIC BENEFITS
43 MAY INCLUDE:

- 44 1. INSTALLATION OF INFRASTRUCTURE.

2. SUSPENSION, REDUCTION OR PROVISIONS OF CREDITS AGAINST OTHERWISE APPLICABLE FEES.

3. OTHER SPECIFIC ECONOMIC BENEFIT TO NEARBY OR ADJACENT TRUST LAND THAT THE COMMISSIONER DETERMINES JUSTIFIES GRANTING THE RIGHT-OF-WAY.

E. A REPLACEMENT RIGHT-OF-WAY MAY BE GRANTED FOR CONSIDERATION OTHER THAN, OR IN ADDITION TO, MONETARY CONSIDERATION IF THE APPLICANT PROVES TO THE COMMISSIONER'S SATISFACTION THAT THE SPECIFIC BENEFIT DESCRIBED IN SUBSECTION D HAS BEEN OR WILL BE PROVIDED.

Sec. 34. Title 37, chapter 2, article 13, Arizona Revised Statutes, is amended by adding section 37-527, to read:

~~37-527.~~ Trust land management fund

A. THE TRUST LAND MANAGEMENT FUND IS ESTABLISHED PURSUANT TO ARTICLE X, SECTION 7, CONSTITUTION OF ARIZONA. THE COMMISSIONER, WITH THE APPROVAL OF THE BOARD OF TRUSTEES, SHALL DETERMINE THE AMOUNT TO BE DEPOSITED IN THE FUND EACH FISCAL YEAR PURSUANT TO THE REQUIREMENTS OF ARTICLE X, SECTION 7, CONSTITUTION OF ARIZONA.

B. THE MANAGEMENT FUND MAY BE USED ONLY TO SUPPLEMENT FUNDING FOR THE ADMINISTRATION, MANAGEMENT, PLANNING AND DISPOSITION OF TRUST LAND. RESPONSIBILITIES OF THE COMMISSIONER AND THE DEPARTMENT THAT ARE UNRELATED TO THE MANAGEMENT, PLANNING OR DISPOSITION OF TRUST LAND SHALL NOT BE FUNDED FROM THE MANAGEMENT FUND.

C. THE MONIES IN THE MANAGEMENT FUND ARE NOT SUBJECT TO THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS, BUT IF THE BALANCE IN THE FUND AT THE END OF ANY FISCAL YEAR EXCEEDS TWO TIMES THE OPERATING BUDGET RELATING TO TRUST LAND FOR THE NEXT FISCAL YEAR, THE EXCESS AMOUNT SHALL BE CREDITED PROPORTIONATELY TO THE SEVERAL PERMANENT FUNDS ESTABLISHED PURSUANT TO THIS ARTICLE.

Sec. 35. Section 37-606, Arizona Revised Statutes, is amended to read:

~~37-606.~~ Protest; public hearing; judicial review

A. A person interested in the exchange of state lands may appear at any hearing and enter a written protest as provided in section 37-604.

B. The commissioner shall render a decision regarding any protest and serve notice of the decision pursuant to section ~~37-133~~ 37-153.

C. Except as provided in section 41-1092.08, subsection H, final decisions of the commissioner are subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 36. Section 37-616, Arizona Revised Statutes, is amended to read:

~~37-616.~~ Protest; public hearing; judicial review

A. A person interested in the exchange of any road rights-of-way may appear at any hearing on the exchange and enter a written protest as provided in section 37-604.

B. The state land commissioner shall render a decision regarding any such protest and serve notice of the decision in accordance with section ~~37-133~~ 37-153.

C. Except as provided in section 41-1092.08, subsection H, final decisions of the commissioner are subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 37. Section 41-172, Arizona Revised Statutes, is amended to read:

41-172. Duties: administering oaths: appointment of deputy state treasurer

A. The state treasurer shall:

1. Authenticate writings and documents certified by him with the seal of his office.

2. Receive and keep ~~securely~~ in ~~his~~ SECURE custody all monies that belong to the state and that are not required to be received and kept by some other person.

3. File and keep the documentation delivered to the treasurer when monies are deposited into the treasury.

4. Deliver to each person depositing money into the treasury a receipt showing the amount, the source from which the money accrued, ~~and the funds into which it is deposited,~~ and shall number ~~such~~ THE receipts in order, beginning with number one at the ~~commencement~~ BEGINNING of each fiscal year, and deliver a duplicate ~~thereof~~ RECEIPT to the department of administration.

5. Pay warrants drawn by the department of administration in the order in which they are presented, and take upon the back ~~thereof~~ OF THE WARRANT the receipt of the person to whom it is paid.

6. Keep an account of all monies received and disbursed, and keep separate accounts of the different funds and appropriations of money.

7. Give information in writing as to the condition of the state treasury, or upon any subject relating to the duties of the treasurer, at the request of a member of the legislature.

8. Deliver to the governor and the department of administration, monthly, an accurate statement of receipts and expenditures of public monies for the preceding month, containing a complete exhibit of all the public monies received and paid from the state treasury, showing, under separate heads, on what accounts and from what sources received, and for what particular object or service the monies have been paid. The treasurer shall deliver to the governor a similar statement on or before November 1 each year for the preceding fiscal year. The statements are public records available for inspection at the office of the state treasurer.

~~9. Exercise those specific powers of the surveyor-general as a member of the selection board established under section 37-202.~~

B. The state treasurer may administer all oaths prescribed by law in matters touching the duties of the office of the state treasurer, may appoint a deputy state treasurer, may qualify and select investment managers or advisors pursuant to section 35-318 and shall perform other duties required by other laws of the state.

C. The state treasurer may obtain criminal history record information pursuant to section 41-1750, subsection G from the department of public

safety criminal identification section for the purpose of employment of personnel.

Sec. 38. Section 41-511.23, Arizona Revised Statutes, is amended to read:

41-511.23. Conservation acquisition board: land conservation fund: conservation donation and public conservation accounts; livestock and crop conservation fund

A. The conservation acquisition board is established, as an advisory body to the Arizona state parks board, consisting of the following members who are appointed by the governor, at least one of whom shall be experienced in soliciting money from private sources:

1. One state land lessee.
2. One member who is qualified by experience in managing large holdings of private land for income production or conservation purposes.
3. One member of the state bar of Arizona who is experienced in the practice of private real estate law.
4. One real estate appraiser who is licensed or certified under title 32, chapter 36.

5. One member who is qualified by experience in marketing real estate.
6. One representative of a conservation organization.
7. One representative of a state public educational institution.

B. The governor shall designate a presiding member of the board. The term of office is five years except that initial members shall assign themselves by lot to terms of one, two, three, two members for four and two members for five years in office.

C. The conservation acquisition board shall:

1. Solicit donations to the conservation donation account.
2. Consult with entities such as private land trusts, state land lessees, the state land department, the Arizona state parks board and others to identify ~~conservation areas that are reclassified~~ TRUST LANDS, AS DEFINED BY SECTION 37-101, THAT ARE PROVISIONAL RESERVE LANDS OR THAT ARE ELIGIBLE FOR DISPOSITION pursuant to section ~~37-312~~ 37-236.01 and that are suitable for funding.

3. Recommend to the Arizona state parks board appropriate grants from the land conservation fund.

D. The land conservation fund is established consisting of the following accounts:

1. The conservation donation account consisting of monies received as donations. Donations to the account are subject to any lawful conditions the donor may prescribe, including any conditions on the use of the money or reversion to the donor. Monies in the account are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

2. The public conservation account consisting of monies appropriated to the account from the state general fund and monies from any other

1 designated source. In fiscal years 2000-2001 through 2010-2011, the sum of
2 twenty million dollars is appropriated each fiscal year from the state
3 general fund to the public conservation account in the land conservation fund
4 for the purposes of this section. Monies in the account are appropriated for
5 the purposes of this section, and the Arizona state parks board may spend
6 monies in the account without further legislative authorization. Each
7 expenditure of monies from the public conservation account for purposes
8 listed under subsection G, paragraph 2 of this section shall be matched by an
9 equal expenditure of monies from the conservation donation account or from
10 other private or governmental sources.

11 E. If the legislature fails to appropriate monies to the public
12 conservation account in a fiscal year, and if there are no other monies in
13 the public conservation account, the Arizona state parks board may either
14 grant nothing from the fund in that year or, on recommendation by the
15 conservation acquisition board, may grant available monies in the
16 conservation donation account for purposes authorized in subsection G of this
17 section.

18 F. The monies in the fund are exempt from the provisions of section
19 35-190 relating to lapsing of appropriations.

20 G. Monies in the public conservation account, with matching monies
21 from the conservation donation account, are appropriated as follows:

22 1. A total of two million dollars each fiscal year to the livestock
23 and crop conservation fund. The fund is established for the purposes of this
24 paragraph. Monies in the fund are continuously appropriated to the Arizona
25 department of agriculture for the exclusive purpose of granting monies to
26 individual landowners and grazing and agricultural lessees of state or
27 federal land who contract with the Arizona department of agriculture to
28 implement conservation based management alternatives using livestock or crop
29 production practices, or reduce livestock or crop production, to provide
30 wildlife habitat or other public benefits that preserve open space and for
31 administrative expenses as provided by this paragraph. The department shall
32 administer the fund. On notice from the director of the department, the
33 state treasurer shall invest and divest monies in the fund as provided by
34 section 35-313, and monies earned from investment shall be credited to the
35 fund. Monies in the fund are exempt from the provisions of section 35-190
36 relating to lapsing of appropriations. For the purposes of granting monies
37 from the fund pursuant to this paragraph, the department:

38 (a) Shall develop guidelines and criteria for implementation of this
39 program that shall include requiring as part of the application a letter
40 describing the intended use for the grant money.

41 (b) Shall give priority to lessees of state or federal land who reduce
42 livestock production to provide public benefits such as wildlife species
43 conservation or wildlife habitat.

44 (c) Shall not grant more than fifty per cent of the monies in the fund
45 with respect to land in one county in any fiscal year.

(d) Is exempt from chapter 6 of this title with respect to adopting rules, except that the department shall provide for public notice and sixty days for public comment on the annual grant guidelines and criteria, including public hearings.

(e) Shall award all grants pursuant to chapter 24, article 1 of this title.

(f) Shall require each grantee to submit to the department, within twelve months after receiving the grant, a written report detailing how grant monies were used to achieve the project described in the letter submitted as part of the application. If the project is longer than one year, a written report shall be submitted to the department on an annual basis until the project is complete.

(g) May use not more than five per cent of the monies appropriated to the fund in any fiscal year for the purposes of administering the program.

(h) Shall prepare a report of the disposition of monies appropriated to the fund each fiscal year and provide a copy of the report to the governor, to the Arizona state parks board and to any person who requests a copy.

2. The remainder of the monies to the Arizona state parks board for the exclusive purpose of granting monies to the state or any of its political subdivisions, or to a nonprofit organization that is exempt from federal income taxation under section 501(c) of the internal revenue code and that has the purpose of preserving open space, for the following purposes only:

(a) To purchase or lease ~~state trust lands~~ LAND, AS DEFINED BY SECTION 37-101, THAT IS PROVISIONAL RESERVE LAND OR that ~~are~~ IS classified as suitable for conservation ~~purposes pursuant to title 37, chapter 2, article 4.2~~ AND IS ELIGIBLE FOR DISPOSITION PURSUANT TO SECTION 37-236.01. A grant of money under this subdivision to a nonprofit organization is conditioned on the organization providing reasonable public access to any land that is wholly or partly purchased with that money. The organization shall agree with the Arizona state parks board that it will impose a restrictive covenant, running with the title to the land, granting such access and providing for reversion to this state of any interest in the property acquired with money granted under this subdivision on the failure to comply with the terms of the covenant. The Arizona state parks board and the state land commissioner have standing to either enforce the covenant or recover the amount of the grant from the current owner, with interest from the date the grant was awarded to the nonprofit organization.

(b) To purchase the development rights of ~~state trust lands~~ LAND throughout this state under the following conditions:

(i) The development rights shall be sold ~~at public auction~~ as provided in section 37-236.01, 37-258.01 OR 37-336.01.

(ii) The lessee of the ~~state~~ trust land at the time the development rights are purchased shall be notified of the purchase in writing.

(iii) The purchase of the development rights shall not result in cancellation or modification of the current lease.

(iv) The purchase of the development rights shall not affect the existing lessee's current economic use of the land and rights pursuant to title 37, chapter 2, article ~~4-2~~ 5.2.

(v) As a condition of the sale of the development rights, the purchaser shall agree in perpetuity not to exercise the development rights and that the land shall remain as open space.

(vi) The ~~state~~ trust land shall retain any other rights and attributes as prescribed by law at the time of the purchase.

H. For the purposes of subsection G, paragraph 2 of this section:

1. The Arizona state parks board shall not grant more than fifty per cent of the monies with respect to land in one county in any fiscal year.

2. A grant of money is valid for eighteen months. ~~and~~ A GRANT may be extended ~~one-time~~ UP TO THREE TIMES for twelve additional months ~~if a required public auction has not been held~~ EACH.

3. The Arizona state parks board may adopt rules to establish qualifications of nonprofit organizations for purposes of applying for and receiving money granted.

4. The owner of property that is wholly or partly acquired with money granted shall not restrict or unreasonably limit access to private lands. Any sale of land with money granted shall include a condition requiring that permanent access to private lands be allowed.

I. The Arizona state parks board shall administer the land conservation fund. On notice from the board, the state treasurer shall invest and divest monies in either account in the fund as provided by section 35-313, and monies earned from investments shall be credited to a separate administration account to pay the board's expenses of administering the land conservation and acquisition program under subsection G, paragraph 2 of this section, which shall not exceed five per cent of the amount deposited in the public conservation account in any fiscal year or five hundred thousand dollars, whichever is less. Any unobligated amount remaining in the administration account at the end of the fiscal year shall be credited to the public conservation account for purposes of subsection D of this section.

J. Members of the conservation acquisition board may be reimbursed for travel and lodging expenses and per diem subsistence allowances incurred while on public business for the board. Reimbursement amounts shall not exceed those allowed under title 38, chapter 4, article 2.

Sec. 39. Section 41-1092.02, Arizona Revised Statutes, is amended to read:

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
 2. The board of executive clemency.
 3. The industrial commission of Arizona.
 4. The Arizona corporation commission.
 5. The Arizona board of regents and institutions under its jurisdiction.
 6. The state personnel board.
 7. The department of juvenile corrections.
 8. The department of transportation.
 9. The department of economic security except as provided in sections 8-506.01 and 8-811.
 10. The department of revenue regarding income tax, withholding tax or estate tax or any tax issue related to information associated with the reporting of income tax, withholding tax or estate tax.
 11. The board of tax appeals.
 12. The state board of equalization.
 13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.
 14. The board of fingerprinting.
 15. THE TRUST LAND BOARD OF TRUSTEES AND STATE LAND COMMISSIONER IN CONNECTION WITH ACTIONS THAT ARE SPECIFICALLY EXEMPT FROM APPEAL PURSUANT TO TITLE 37.
- B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.
- C. Except as provided in subsection A of this section:
1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to the provisions under section 42-1251.
 2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.
- D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.
- E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.
- F. The board of appeals established by section 37-213 is exempt from:
1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

1 2. The requirement in section 41-1092.06, subsection A to hold an
2 informal settlement conference at the appellant's request if the sole subject
3 of an appeal pursuant to section 37-215 is the estimate of value reported in
4 an appraisal of lands or improvements.

5 G. Auction protest procedures pursuant to title 37, chapter 2, article
6 4.1 are exempt from this article.

7 Sec. 40. Conditional enactment

8 A. This act is not effective unless both of the following occur:

9 1. The Constitution of Arizona is amended at the next general election
10 to reform the management of trust land as provided by the initiative styled
11 "Conserving Arizona's Future" and designated by the Secretary of State as
12 C-03-2006.

13 2. On or before December 31, 2008, the Arizona-New Mexico Enabling Act
14 (Act of June 20, 1910; 36 Stat. 557) is amended by Congress and signed into
15 law to authorize the amendment of the Constitution of Arizona, as described
16 in paragraph 1. On or before December 31, 2008, the state land commissioner
17 shall notify the director of legislative council in writing whether this
18 condition occurred and the date the enabling act was amended.

19 B. The enactment of any provision of this act conditioned on the
20 results of the election under subsection A, paragraph 1 does not constitute a
21 submission of those provisions to the voters under the power of the
22 referendum.